

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
JANUARY 25, 2005**

The Vanderburgh County Drainage Board met in session this 25<sup>th</sup> day of January, 2005 at 4:27 p.m. in room 301 of the Civic Center Complex.

**Call to Order**

Commissioner Crouch: Good afternoon. We will now open the Vanderburgh County Drainage Board meeting, Tuesday, January 25, 2005. Mr. Jeffers?

**Drainage Board Organization**

Bill Jeffers: I believe I distributed an agenda package, does everyone have that?

Commissioner Crouch: You really did a wonderful job. Thank you.

Commissioner Musgrave: Bill, can you e-mail those to me from now on?

Bill Jeffers: Yes, ma'am.

Commissioner Musgrave: Thank you.

Bill Jeffers: They're also published on line, on the same day that they go to your office, hard copy. Your first action item would be to reorganize your board in accordance with the statute, by electing a chairman, a vice chairman, or let's call it a chair, a vice chair, and appointing a secretary at this time.

Commissioner Crouch: Traditionally, has the Vice President of the Commission been the chair?

Commissioner Musgrave: Now, hold on.

Bill Jeffers: Yes, ma'am.

Commissioner Crouch: I would like to nominate Commissioner Musgrave for chair please.

Commissioner Nix: I will second that nomination.

Commissioner Crouch: All in favor?

All Commissioners: Aye.

Commissioner Nix: Congratulations.

Commissioner Crouch: Now, we need to also elect a vice president, is that correct?

Bill Jeffers: Yes, ma'am.

Commissioner Crouch: I would like to nominate Commissioner Nix for Vice President.

Commissioner Musgrave: Second.

Commissioner Crouch: All in favor?

All Commissioners: Aye.

Commissioner Musgrave: And the secretary.

Commissioner Crouch: And the secretary, traditionally, who has been the secretary, Mr. Jeffers?

Bill Jeffers: The County Auditor, or a representative of the County Auditor.

Commissioner Crouch: I would like to nominate Madelyn Grayson for the Drainage Board secretary.

Commissioner Nix: I second that nomination.

Commissioner Crouch: All in favor?

All Commissioners: Aye.

<b>Announcement of Meeting Places and Times</b>
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Bill Jeffers: Your second action item is to, I might be incorrectly calling them action items, the second item on the agenda is to assign a meeting place and time, fix the time and dates for your regular drainage board meetings, which is a matter of course. I mean, you've already done that as Commissioners.

Commissioner Crouch: Right, I would like to make a motion that we set our meeting date and time as previously adopted on the 4<sup>th</sup> Tuesday of each month, immediately following the Commission meeting.

Commissioner Nix: I'll second that motion.

President Musgrave: All those in favor?

All Commissioners: Aye.

<b>Approve Minutes of December 20, 2004 Drainage Board Meeting</b>
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Bill Jeffers: Your third item is for Commissioner Crouch to approve the minutes of the previous December meeting, as the other two members were not present.

Commissioner Crouch: I will approve the minutes, and the Recording Secretary, can you attest to the veracity of those?

Madelyn Grayson: To the best of my ability, they are correct.

Commissioner Crouch: Alright. So ordered.

President Musgrave: So, at this point we move to the drainage plans that are on the agenda.

Bill Jeffers: Yes, ma'am.

President Musgrave: Could you lead us through those?

Bill Jeffers: Okay.

**William S. Hirsch Subdivision: Preliminary Plan**

Bill Jeffers: Your first drainage plan for this evening is the William S. Hirsch Subdivision. It's a preliminary drainage plan, which means that subsequent to this, if it's approved, the subdivision plan will go before the Area Plan Commission on the first Wednesday of February. Then will return here, most likely in your March meeting for final approval of the drainage plan, giving any remonstrators opportunity to work with the developer to resolve any issues. The project is located at the southwest corner of Columbia Street and Burkhardt Road, north of Sam's Club, to consist of approximately four acres, and is possibly going to be the location of a new branch bank. The project is part of a larger 47 or 48 acre rezoning between Columbia Street and Oak Grove Road, zoned C-4, on October of 2004 by the County Commissioners. The overall plan should consider and accommodate future infrastructure for the larger development. Meaning that this particular plan should not make it impossible for the other 45 acres to drain through this four acre parcel. The plan is preliminary, it substantially meets the requirement of the county drainage code, and the Surveyor recommends approval of the plan. Your board may wish to ask if there are any remonstrators present tonight to give comment before voting to approve the plan.

President Musgrave: Are there any remonstrators present for the William S. Hirsch Subdivision? I see none, so, I'll entertain a motion.

Commissioner Crouch: I'll move approval of the William S. Hirsch Subdivision, 5-S-2005 for first reading.

Commissioner Nix: I second that motion.

President Musgrave: Is there any discussion? Hearing none, I'll call for the vote. All those in favor say aye.

All Commissioners: Aye.

President Musgrave: That is unanimous. We move to the next one.

**CMH Subdivision: Preliminary Plan**

Bill Jeffers: Your next plan is CMH Subdivision. It's a commercial subdivision, a preliminary drainage plan. So, the same comments would apply regarding Area Plan and subsequent drainage board meetings. It's located on the west side of U.S. 41 at Schroeder Road, directly across from the State Police post, just south of I-64. The plan substantially comports with the county's drainage code and has the Surveyor's recommendation for approval. I previously had made that recommendation in writing, conditioned on the revision of this drainage plan to discharge it's drainage basin into the state right-of-way for U.S. 41, rather than discharging on to agricultural adjacent property, but I've been told by the plan designer that INDOT likely will not approve discharge into U.S. 41 drainage ditch, because it doesn't currently discharge in that direction. So, that will be an item that I'll have to work out with the design engineer between now and final approval next

month. Again, the board may wish to ask if there are any remonstrators present. The County Surveyor recommends approval of the preliminary plan.

President Musgrave: Are there any remonstrators present for CMH Subdivision? I see none. I would entertain a motion.

Commissioner Crouch: I'll move that we approve the CMH Subdivision preliminary drainage plan.

Commissioner Nix: I second the motion.

President Musgrave: Any discussion? Hearing none, I'll call for the vote. All those in favor say aye.

All Commissioners: Aye.

President Musgrave: That passes unanimously. Next one.

<b>Metro Center East, Section Nine: Final Plan</b>
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Bill Jeffers: The next one is Metro Center East, section nine. It's a final drainage plan, meaning that, if it's approved this evening the developer will be able to record the subdivision plat that was approved by Area Plan Commission last month, and move ahead to acquire building permits to build out this commercial subdivision, which is located on the east side of Royal Avenue, north of Virginia Street, and along Metro Avenue, which is west of Burkhardt Road. The plan substantially complies with the county's drainage code, has the Surveyor's recommendation for approval, with the condition that a revision to this plan show a 30' wide drainage easement along the north line of the subdivision until a topographic survey and other engineering details can determine the exact width of that easement necessary to house the improved ditch. What that means is there's a little bit of detail left to work out so that when they improve the ditch to it's new condition, it all fits inside the drainage easement in accordance with the code. We anticipate the easement will be 25' to 30' wide, but I don't want to oversize it and waste land. I believe the developer and his engineer have agreed to that condition and have reflected that on plans that they submitted Friday. The developer and his engineer are in the audience if they would like to address anything, and the board may wish to ask for remonstrators before voting. The Surveyor's recommendation is to approve.

President Musgrave: Are you here to remonstrate on this? Do you have information on Metro Center East? Can you answer questions?

Unidentified: Yes.

President Musgrave: Okay, he says that he believes that you agree with this provision here in the drainage plan. For the record will you state whether that is so? State your name and address for the record.

Matthew Wallace: I am Matthew Wallace. I work for Morley and Associates, 600 S.E. Sixth Street here in Evansville. I'm the design engineer for the project, and I certified the plan. The easement in question is for a drainage ditch that currently does not meet the county standard for the geometric shape for the side slopes. The County Surveyor has asked that the developer correct that and put the ditch back

to it's, to meet the county's standards, and to provide a 10' strip along the top of the future bank to allow the county to maintain that ditch. Is that correct, Bill?

Bill Jeffers: To allow room for the owners of the property to maintain the ditch.

Matthew Wallace: Yes, that is not a county—

Bill Jeffers: Since it crosses more than one lot.

Matthew Wallace: That is correct. That is not a county regulated drain.

Bill Jeffers: No, sir.

Matthew Wallace: It would not be maintained by the county. It will be maintained by the lot owners.

President Musgrave: So, you agree to this? State your name and address for the record.

Andy Spurling: I'm Andy Spurling, 2000 Waters Ridge Dr. in Newburgh. I represent the developer. Yes, we agree to that.

President Musgrave: Okay. So, there are no remonstrators here. I'll entertain a motion.

Commissioner Nix: I make a motion that we approve Metro Center East, Section Nine.

Commissioner Crouch: Second.

President Musgrave: Any discussion? Hearing none, I'll call for the vote. All those in favor say aye.

All Commissioners: Aye.

President Musgrave: It passes unanimously. Thank you for your testimony.

Matthew Wallace: Thank you.

Andy Spurling: Thank you.

<b>Dayton Freight Line Terminal: Final Plan</b>
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Bill Jeffers: Your last plan tonight is Dayton Freight Line Terminal. It's a final drainage plan, as was Metro Center. The project is located on the east side of Green River Road, just south of Boonville-New Harmony Road. It's directly across the street from Daylight Industrial Park. The final plan substantially comports with the county's drainage code. It has the County Surveyor's recommendation for approval by your board.

President Musgrave: Are there any remonstrators?

Bill Jeffers: Let's see, the condition on that one is that the construction drawings have been forwarded to the County Engineer's office, and the County Surveyor makes his recommendation based on any recommendations from the County Engineer relevant to the County Commissioners approval of the street and drainage plans.

President Musgrave: Is it normal to approve a final drainage plan with things like this still outstanding?

Commissioner Nix: You mean conditions?

Bill Jeffers: Yes.

President Musgrave: Okay.

Commissioner Crouch: It's not like rezoning.

President Musgrave: Okay.

Bill Jeffers: In other words, Mr. Stoll will be bringing a recommendation to the County Commissioners for some decel lanes, and ditches and so forth in the right-of-way for Green River Road.

President Musgrave: Okay.

Bill Jeffers: He may find something that his requirements cover that the county drainage code and the Surveyor's recommendation doesn't cover. His jurisdiction would overrule mine in that case.

President Musgrave: Okay. Well, I see no one in the audience, so, there are no remonstrators. In which case I'll entertain a motion.

Commissioner Nix: I make a motion that we approve Dayton Freight Line Terminal, final drainage plan.

Commissioner Crouch: Second.

President Musgrave: Is there any discussion? Hearing none, I'll call for the vote. All those in favor say aye.

All Commissioners: Aye.

President Musgrave: Are there other drainage plans?

Bill Jeffers: There are no other drainage plans to bring before the Drainage Board at this time.

<b>Ditch Maintenance Claims</b>
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President Musgrave: Is there other new business?

Bill Jeffers: Yes, ma'am. I have one claim, this is a standard blue claim for the board's approval and signatures, so that this claim may be forwarded to the County

Auditor to pay the contractor for work he or she has completed on the county's regulated drain, in accordance with the specifications and bids that were approved and awarded by the board in 2004. The claim is accompanied by the required paperwork required by this board and the Auditor verifying that work has been inspected, and that the County Surveyor recommends payment of the claim.

President Musgrave: Is there a motion?

Commissioner Nix: I make a motion that we pay the claim.

Commissioner Crouch: Second.

President Musgrave: All those in favor say aye.

All Commissioners: Aye.

President Musgrave: It is unanimous.

<b>Preliminary Report: Post Construction Testing of Flexible Pipe</b>
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President Musgrave: Is there a report, sir.

Bill Jeffers: Yes, ma'am. I have a copy of a preliminary report that I gave the previous board.

Commissioner Crouch: I even looked at it.

Bill Jeffers: This particular copy happens to be a copy of an e-mail I forwarded to Mr. Stoll, your County Engineer, because his inspectors go out and look at the installed drainage pipes in new subdivisions. Basically, what this report covers is an issue regarding flexible pipe. Flexible pipe is high density polyethylene pipe, which is plastic. Corrugated metal pipe, which is either aluminum or steel, and PVC pipe, which is smooth bore, smooth exterior, blue or white plastic pipe. These are all flexible pipes, which unlike reinforced concrete pipe, they are not rigid. The report covers all this very briefly, and in layman's terms, I would like for you to read it at your leisure, not tonight.

Commissioner Crouch: Why not tonight?

Bill Jeffers: Unless you have nothing better to do.

President Musgrave: Is this for my edification?

Bill Jeffers: Yes, ma'am. What our concerns are is that we've found some plastic pipe, we have pictures of it in the previous report. I did not attach them to this report. I have them on CDROM, if you would like to view them, I can print them.

Commissioner Nix: Where did you find these?

Bill Jeffers: We're finding that the plastic membrane, the, actually, the plastic components of this pipe tend to unwind like fishing line does. It has a membrane, it tends to unwind, and if there's any stress points in the process of unwinding, it forms cracks and deformations. Also we're finding that if it's not installed properly,

and in very strict conformance with manufacturer's recommendations, or INDOT design standards, that it deflects, crushes, etcetera, unlike rigid, unlike concrete pipe. Then, it's ability to convey storm water, as designed, is lessened. In some cases the cracks become so pronounced that the pipe should be taken out of the ground and replaced. What the county does is they collect \$2 a lineal foot kind of as an insurance policy that sits in escrow to repair or replace failed structures in new subdivisions. But, we never anticipated that we would have wholesale failures. We only anticipated occasionally to come across defective installations or such, and that we would have to make limited replacements or repairs. What we're afraid of now is that if there are large amounts of flexible pipe incorrectly installed or in need of repair that we would deplete all the county funds to do so. What we're asking to do is to insert some amendments into the drainage code to require more stringent post construction inspections of storm water pipe, such as Lafayette, Indianapolis and Bloomington require. Basically, this would be either visual inspection, where you can't crawl into a pipe, you would send a camera in, or you would draw a mandrel through the pipe to see if it has distorted to the point that it's on the verge of failure. This would be done 30 to 60 days after installation, and again maybe 270 days, a half a year, after installation.

President Musgrave: So, are you wanting us to make a decision on this at a future time?

Bill Jeffers: Yes, ma'am. I would like for this to be a preliminary report. I would like to sometime in the very near future, in the next couple of months to bring you a final report with recommendations. Then if the Drainage Board finds it appropriate to address, to forward that to the County Commissioners for a hearing to determine amendment of the drainage code.

Commissioner Nix: You would also have input from Mr. Stoll on this?

Bill Jeffers: Yes, sir.

Commissioner Nix: Okay.

Bill Jeffers: Many of the pictures would be coming from Mr. Stoll's department, because his department does the current visual inspections, and has found some of these problems.

President Musgrave: Is that the sole report that you have today?

Bill Jeffers: Yes, ma'am.

<b>Encroachment Agreements: Gordon Food Services</b>
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President Musgrave: Shall we move to encroachment agreements?

Bill Jeffers: I believe we have one encroachment agreement, and those are usually brought to you by your secretary. Did he send a new check?

Madelyn Grayson: He had sent a personal check, which the Recorder's office will not accept. He e-mailed me last week that he will be sending a cashier's check. So, I cannot record it until he sends that. You can approve it, but I can't record it until he sends that check.



Bill Jeffers: Okay, what these encroachment agreements are, is we have drainage easements out in the county, in new subdivisions, that usually are intended to house drainage facilities; basins, pipes, etcetera, ditches. Occasionally, a commercial venture will need to extend parking, or dumpster pads, or such, usually it's parking, out into these drainage easements to satisfy the requirements for parking, Area Plan's requirements for parking. We don't have any problem with that, so long as it doesn't interfere with drainage, and so long as the applicant fully indemnifies the county against any loss or damages. That's what this encroachment agreement was designed by the previous County Attorneys, Joe Harrison, Jr. and Kevin Winternheimer, and now comes to you possibly with comments from your current County Attorney. If everything is found to be in order, the County Surveyor recommends approval of this particular one, which is Gordon Food Service, Incorporated, on Burkhardt Road, who needs the space to locate his dumpster enclosure, and we find no problem with the request.

President Musgrave: Mr. Ziemer, are there comments?

Ted C. Ziemer, Jr.: I have already reviewed the agreement. I e-mailed the Commissioners this afternoon advising them that I think the agreement is satisfactory from the legal perspective.

President Musgrave: I will entertain a motion to accept the agreement.

Commissioner Nix: I make a motion we accept the agreement.

Commissioner Crouch: Second.

President Musgrave: Any discussion? Hearing none, I will call for the vote. All those in favor say aye.

All Commissioners: Aye.

President Musgrave: That is unanimous.

<b>Other Persons Wishing to Address the Board</b>
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President Musgrave: We move to other persons wishing to address the board. I see no other person here.

<b>Questions, Comments or Assignments from the Board</b>
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President Musgrave: So, we will move to questions, comments or assignments from the board.

Commissioner Crouch: I just want to say that it's been a pleasure working with Mr. Jeffers in the last four, well, ten years, I guess, as Auditor and Commissioner. I'm really looking forward to working with you this year and next, at least, to help realize some of the projects that we have, that we need to address.

Bill Jeffers: I appreciate that. As you know, and the other Commissioners are fully aware, Drainage Board basically facilitate economic development, particularly commercial and residential growth, and I certainly look forward to working with you, Ms. Crouch, and the other two newly elected Commissioners, because I know all

three of you are progressive, and intend to conduct business in such a way to facilitate economic development.

Commissioner Nix: Thank you.

President Musgrave: I appreciated your report. Is it possible for you to insert the picture of the location in the body of your report? I'll show you how to do that. That would be from the GIS.

Bill Jeffers: Oh, such as Area Plan Commission does? The aerial photograph of the—

Commissioner Nix: Up on the screen.

Bill Jeffers: You're talking about for each of the drainage plans?

President Musgrave: Right. You can clip the picture, and plop it right in your document.

Bill Jeffers: I would love to be able to do that, and if you would be kind enough to show me—

President Musgrave: I will do so.

Bill Jeffers: – I'll make sure that's in your next report.

President Musgrave: Thank you, sir.

Bill Jeffers: Thank you.

President Musgrave: If there are no other questions, comments or assignments—

Commissioner Crouch: Motion to adjourn.

Commissioner Nix: Second.

President Musgrave: Thank you. We are adjourned.

(The meeting was adjourned at 4:50 p.m.)

**Those in Attendance:**

Cheryl Musgrave

Bill Jeffers

Matthew Wallace

Members of Media

Bill Nix

Ted C. Ziemer, Jr.

Andy Spurling

Suzanne Crouch

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne M. Crouch, Member**

(Recorded and transcribed by Madelyn Grayson.)

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
FEBRUARY 22, 2005**

The Vanderburgh County Drainage Board met in session this 22<sup>nd</sup> day of February, 2005 in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the February 22<sup>nd</sup> Vanderburgh County Drainage Board.

**Approval of January 25, 2005 Drainage Board Minutes**

President Musgrave: May I have the approval of the minutes of the previous meeting?

Commissioner Nix: I make a motion that we approve.

Commissioner Crouch: I'll second.

President Musgrave: All in favor say aye.

All Commissioners: Aye.

President Musgrave: That is approved.

**William S. Hirsch Subdivision: Final Plan**

President Musgrave: We move now to the William Hirsch Subdivision, final drainage plan.

Bill Jeffers: Did everyone get a copy of the agenda packet with the comments attached and the photographs? William S. Hirsch Subdivision is a preliminary drainage plan, the site is located east and adjacent of Burkhardt Road, north of Sam's Club. A general description of the site is four and a half acres of flat farm ground that was recently rezoned C-4 for the development of a one lot subdivision. It's at the southwest corner of 45 acre tract that was rezoned with minimal site planning, and currently covered only by a commitment to build necessary street and drainage infrastructure on a piecemeal basis as the project expands through the 45 acre rezoned parcel. Specific concerns that the County Surveyor has with this four and a half acre drainage plan is the lack of a comprehensive plan to develop the entire 45 acre tract and provide common infrastructure, results in this site's inability to completely satisfy code requirements regarding detention and controlled release of post construction storm water run off. The drainage plan was revised Friday to show a 3.3 inch orifice in the outfalling structure to control the run off, that's what would be required to control the run off, but that falls below our minimum eight inch diameter, or eight inch square orifice. The reason we have that minimum requirement is because the small orifices would clog up with the least little bit of trash. What this developer is asking to do is to waive the code requirement for total detention, and for the board to release that requirement and allow them to put an eight inch orifice in the discharge. This is substantially, this would restrict it to substantially more than the minimum required outflow, and, however, if you'll look down here under remedies, I'm saying that the drainage code allows the board to

exercise its discretionary power on a site by site basis, but that your action in this regard might set a precedent that the developer would seek to repeat if piecemeal development continues through the 45 acre parcel. What I'm saying there is I'm not so concerned about this one four and a half acre parcel. I think that the other 45 acres will allow the opportunity for compensation for this excess run off. It's not an extreme amount of water that's going to run off, it's just that I don't want to set a precedent that if this developer continues to develop piecemeal, four acres at a time, rather than have a community wide plan for the entire 45 acres, we'll end up with way too much water discharging into our pipe along Burkhardt Road. So, I ask that they consider entering into a legally binding agreement that accomplishes a remedial solution in the next phase of development by committing to compensate for the insufficient detention and controlled discharge at this first site. That commitment would have to be made in a recordable affidavit supplied by the applicant and approved by the board. Mr. James Morley would like to reply to that second point.

Jim Morley, Jr. : At this time my client chooses, or would prefer that you guys grant a variance for the discharge. The discharge, for a site like that, for a site like this, an eight inch orifice, which we're talking about an eight inch hole that all this drains through, or actually drain more than this entire site would on its own to begin with. So, there's no feasible way in which we can have anything, have an eight inch orifice and not increase discharge, because the site discharges so little. It's a common problem with anything on the east side. It's flat ground that's farmed, and not a whole lot rolls off of it. Most of what falls on it soaks in. We looked at going with, as Bill had said a couple different options. We looked at using a smaller orifice, at that point we would have to get a variance from you to use a smaller orifice, and smaller orifices are prone to plugging and clogging. A Big Gulp cup would put you out of business. Therefore, at this time, we request that a partial waiver be granted to allow for, to use an eight inch orifice. What we're talking about is two CFS, two cubic feet per second, more leaving this site than what leaves it today. In comparison it dumps to those box culverts along Burkhardt Road. Those box culverts probably carry 600 or 700 cubic feet per second, ball park. I mean, it's a drop in the bucket compared to what it's going to. I can appreciate Bill's concern of not wanting to set a precedent in which we come back in, and as this property is developed, it's developed in one lot at a time. I can appreciate that concern. At this time, this is the only buyer they have though. The owners of the property don't want to commit to something that encumbers the rest of their property, in case they would get a totally different type of user to come in, you know, and they would be limited in what they could do, because of where they had placed a community retention basin, or something along that lines. So, at this time we're requesting a waiver just to allow an extra two cubic feet per second, which is minimal in the grand scope of things, to be allowed.

President Musgrave: Well, I'm new at running these meetings, do I ask for remonstrators at this time?

Bill Jeffers: If you're satisfied with the plan as presented, and then asking for a waiver of detention, yes, you could ask for remonstrators.

Commissioner Nix: I guess, the problem I have is that we do this once, someone else comes along, or you come back to us six months from now, and you've got another one just to the north of this one that's here now, will you ask for this again? Where are we going to be in six months, I guess?

Jim Morley, Jr. : Hopefully, from my standpoint, hopefully, we've got a great big, big box user that wants Morley and Associates to design 100 acres for them. But, I don't know. I can't tell you the answer to that. I can tell you that you reserve the right every time we come in front of you to say no. You reserve the right today to say no, or, if you decide today we'll say yes, but, put me on notice saying, Jim, next time we probably won't, or we won't. Then the next time, I mean, just because you say yes today does not automatically make it that you have to say yes the next time. You know, if you're concerned about a precedent being set, you can verbally state, it goes into the minutes of this meeting that says, you know, this is a one time only deal, you know, and the owner of the property should know the next time this won't be accepted.

Commissioner Crouch: What's your title?

President Musgrave: I think I'm President.

Commissioner Nix: President.

Commissioner Crouch: President, Madam President, the County Engineer is here in the audience. Do you have any comment on this, Mr. Stoll?

John Stoll: I would have the same concerns that Bill Jeffers does in regard to the piecemeal development, because if that continues then, who knows, at some future point the box culvert capacity might be exceeded. It's not just this vacant property around this one lot that we're looking at here. We already have Sam's and Wal-Mart and Target and all these other developments draining into this box. The county spent probably ten million dollars upgrading Burkhardt Road, and I wouldn't want to see actions being taken as a precedent that would turn around and cause problems with the capacity of that box. Another problem if it is piecemealed would be too many pipe connections to the box culvert. Basically, right now this one site does have some existing area drains that are already tied into the box culvert along Burkhardt that they can tie into, but if we keep having that property cut up into smaller and smaller pieces, they won't have anyway to get their drainage into that Burkhardt Road box culvert without knocking new holes in the side of the box culvert. As you know, that will be the first point that the system will fail, and, like I said, the county has had a significant investment in that, and I wouldn't want to see it get all messed up by virtue of not having a comprehensive plan for the development of that property.

President Musgrave: Of the two remedies that have been suggested, which one would you prefer?

John Stoll: The second one was the binding agreement?

President Musgrave: Legally binding agreement.

John Stoll: I'm sorry, what was the first one again?

President Musgrave: Waive or relax the requirement for detention and controlled release of post construction run off.

John Stoll: I would think an agreement would need to be entered into.

Commissioner Crouch: What exactly, can you restate your recommendation, Mr. Jeffers?

Bill Jeffers: Okay, if I can soapbox for one minute.

Commissioner Crouch: One minute. I'll start the clock.

Bill Jeffers: Ms. Crouch will remember this from Area Plan Commission, we've asked this developer to pursue a comprehensive plan for this project. Not this specific four acre project, but for the entire four point five acre rezoning, 45 acre rezoning.

Commissioner Nix: How long back was this asked for?

Bill Jeffers: Several months.

Commissioner Nix: Okay.

Bill Jeffers: But, to get off the soapbox and be fair about this, the entire focus on this project has been at this four point five acres in the southwest corner by a development client who wants to put a lending institution there. It's very important to that client to get this done. So, I've tried to offer remedies, and you can, and I would recommend that you grant a waiver, so long as there is a firm understanding, whether by a legally binding agreement, or by someone's statement, preferably in writing, that the piecemeal development of this 45 acres will not continue without accomplishing adequate detention and control of post development run off in that one and half million dollar pipe that we put along Burkhardt Road for the purpose of draining all this square mile, not just this four acres.

Commissioner Crouch: Mr. Ziemer, is it, would that be agreeable to get a legally binding document? Could that be drawn up?

Ted C. Ziemer, Jr.: Sure it could be, but what I would need is for the County Surveyor to, I don't know anything about drainage, to develop the language for me that you want included pursuant to your recommendations, and then I can prepare a binding agreement. But, I will need the information.

Bill Jeffers: I had asked the applicant to do that and bring it to the meeting, but if you wish to move forward and get this project under construction, which I think would be a great idea, if they would somehow commit at this time that they will work towards that agreement—

Commissioner Nix: And that's for the future development?

Bill Jeffers: For the future development.

Commissioner Nix: Okay.

Bill Jeffers: To accomplish detention in accordance with the code.

Ted C. Ziemer, Jr.: Well, I'm going to say that I'm always reluctant as an attorney to approve something subject to somebody signing something later, which they later decide not to sign.

Bill Jeffers: Right.

Ted C. Ziemer, Jr.: I'm not questioning in anyway the integrity of the developer or Mr. Morley or anybody, I just, I think it would be better if we had the signed document in hand. But, I don't want to stand in the way—

Bill Jeffers: I'd hoped we would have had that today.

Ted C. Ziemer, Jr.: Yeah.

President Musgrave: What is the reason that we do not have that document today?

Jim Morley, Jr. : An agreement as far as tying, as reducing that amount out of the next phase, is that what you're talking about?

Bill Jeffers: Yes, sir.

Jim Morley, Jr. : Because it was our request that you waive that part instead of....there was two remedies, our request is that you would approve the first remedy. If you will not approve the first remedy, then we would seek the second remedy, if the owner of the property would be willing to legally enter into that contract. If they won't, then, you know, I guess, it puts us back here again asking for the variance a second time, I guess. There is, short of increasing the size of the property that they are buying, a considerable amount, there is no way for us to not get a variance of some kind. Either we have to get a variance for the size of the orifice, or we have to get a variance for the amount of water it discharges. One way or the other we have to have a variance, because the site in itself discharges less than what an eight inch orifice will discharge. So, we, I guess, we could go with an eight inch orifice, which is, I guess, a temporary variance of one that gets paid back later coming out of another basin. But, the reason you don't have the second one today is because we would like for you to approve the first one.

President Musgrave: Alright, then, in that case, in order to give you direction, I will ask for a motion approving option number one.

Jim Morley, Jr. : Can I ask a question? If option one is not approved, does that automatically deny approval of this? Or does it then become tabled pending option two being brought back before you?

President Musgrave: Well, hang on. Do I have a motion for the approval of option number one as outlined in the Surveyor's documents? I hear no motion, sir. So, I would suggest to you that this legally binding agreement might be the option that the Commissioners would prefer. Now, Mr. Ziemer has already said that making a motion to adopt some language that hasn't been written or agreed to would be faulty. So, I would ask the board whether we wanted to do that?

Commissioner Nix: But, I guess, there's another way of looking at it too, is this project could proceed, but no other development could be put on that, or nothing else could be developed there until an agreement is reached.

Ted C. Ziemer, Jr.: If that provides you with the protections that you're looking for, that would be satisfactory, but—

President Musgrave: Does it?



Bill Jeffers: Well, I was confused, because when I got the plan it was submitted by Mr. Morley on behalf of the Hirsch Trust. That's who I thought we were dealing with, Jim, and now you're saying that these developers don't want to go outside this boundary with their commitments. But, I thought that the Hirsch's, the Hirsch Trust was the developer of record for the entire 45 acres, including this four and a half acre tract.

Jim Morley, Jr. : That is correct, the Hirsch Trust.

Bill Jeffers: Well, they could make this commitment. Couldn't they?

Jim Morley, Jr. : They can, if they choose to make this commitment.

Bill Jeffers: Oh, but I was under the impression you said in this letter that someone else doesn't want to make the commitment.

Jim Morley, Jr. : I have two entities in which I am dealing with, but you are correct, it is the Hirsch Trust that has to decide whether or not they are willing to make, to commit to that agreement.

Bill Jeffers: Okay, well, that makes it easy for me, because I think the Hirsch Trust is capable of making the commitment. I was operating on behalf of someone, of thinking someone else was wanting to power this one through for the four and a half acres that doesn't have the ability to make the commitment for the rest of the 45 acres.

Jim Morley, Jr. : The downside of it is only for the Hirsch Trust. Whoever uses this property, it had no negative effect on them. The negative impact comes upon the Hirsch Trust. So, it's their decision whether or not they are willing to enter into that legal contract. To address your issue as to whether this project moves forward or not, this project cannot move forward until it has final drainage approval, because the plat cannot be recorded until it has final drainage approval.

Bill Jeffers: That is correct. You have to have this final drainage approval this month, or on March 22<sup>nd</sup> before they can record a plat.

Jim Morley, Jr. : Because the plat—

Bill Jeffers: They can't pull a permit until they record a plat.

Jim Morley, Jr. : Because the plat can't be recorded, the property can't be sold, therefore, a permit cannot be pulled.

President Musgrave: But, in the absence of the agreeable language, we have nothing to vote on.

Jim Morley, Jr. : Unless you refer to what Commissioner Nix had said, where you have an informal agreement—

Ted C. Ziemer, Jr.: But, I'm not sure after hearing what the County Surveyor has said that that's a plan that we can implement. I think, Mr. Surveyor, we need you to recommend to us what you, you put two options, and the first option the Commissioners are not willing to do. We don't want to hold up progress, but, if we

need a written document to establish what people are going to do in the future, then we ought to have that document in place before we start doing things.

Commissioner Nix: Let me ask a question, what other options would they have when they start developing in this?

Bill Jeffers: Well, actually, it's my option. I'll tell you right now I'm not going to recommend another one. I'm not going to recommend another little postage stamp piecemeal parcel without full detention, Jim. You know—

Ted C. Ziemer, Jr.: Do I understand then that—

Bill Jeffers: If you want a recommendation on this one, I think it should move forward, regardless, but I'm not going to recommend anymore for this 45 acre parcel that doesn't accomplish detention in accordance with the code.

Ted C. Ziemer, Jr.: Excuse me, then, so, I would understand, would that mean that you would expect the Hirsch Trust to come in and enter into a binding agreement that satisfies you and me before there could be any further development of this acreage?

Bill Jeffers: Outside of this four and a half acres, is that what you're asking?

Ted C. Ziemer, Jr.: Yes.

Bill Jeffers: Yes, sir. Either that or a full blown plan for the rest of the 45 acres, showing a common detention basin that everything can drain into and stop all this piecemeal development.

Ted C. Ziemer, Jr.: It is perfectly clear that nobody connected with the Hirsch Trust could come in and try to develop the remaining portion, after deducting the four acres, the remaining portion of the 45 acres, without this Commission's approval.

Bill Jeffers: That's correct, sir.

Ted C. Ziemer, Jr.: And we wouldn't give it if we didn't have the written, or the Commissioners wouldn't give it if they didn't have the written document in place.

Bill Jeffers: Or an alternate plan.

Ted C. Ziemer, Jr.: Yeah.

Bill Jeffers: Correct.

President Musgrave: Do you have power of attorney for the Hirsch Trust?

Jim Morley, Jr. : I personally do not, no.

Bill Jeffers: So, if you want me to make a recommendation to approve the plan, I'll make that recommendation, but it will require your waiver of the —

Commissioner Nix: Back to number one.

Bill Jeffers: Yeah, back to number one.

Commissioner Crouch: How often have we done that?

Bill Jeffers: Very seldom.

President Musgrave: Can you think of a time?

Bill Jeffers: We've done it whenever a parcel is so close to a major receiving stream that the discharge, you know, the undetained discharge would be a benefit. To get that water out into the stream before other water comes down on top of it. We've done it in those cases. Across the street here, Joe Ream developed the same type of thing across the street, he made a commitment that he set aside a lot, I think it was lot number eight, that there would be a lake built on lot number eight, and that it would be enlarged to accommodate any loss or shortage of detention that was, that occurred throughout his 80 acres of development. He said, I will enlarge that lake to compensate for it.

Commissioner Nix: The detention?

Bill Jeffers: He said it up front.

Commissioner Nix: A retention lake?

Bill Jeffers: Yes, sir. As we work our way back through that development right directly across the street, we try to keep track of any lost detention. That's really hard to keep track of it. It's really not the best way to go.

President Musgrave: So, board members, do you have a motion?

Commissioner Nix: I make a motion that we request the board waive or relax a requirement for detention, knowing what I know now.

President Musgrave: Is there a second? I think that motion dies for lack of a second. Is there another motion? Including a motion to table until the next meeting?

Bill Jeffers: I'll try to bring it back to you next month, cut and dried.

President Musgrave: In which case, would you like to table this until our next meeting?

Commissioner Crouch: You know, haven't we, I remember recalling one time when we did just, instead of adjourning the meeting, we recessed it, is that correct?

Bill Jeffers: Your state statute allows you to recess the meeting so long as you specify a date certain to reconvene for the continuation of unfinished business.

President Musgrave: How long would it take?

Bill Jeffers: A week? Two weeks?

Jim Morley, Jr. : I mean, assuming that we could get something to your attorney for approval. I mean, I don't know what kind of time line you have.

Bill Jeffers: Or you can come through our office.

Ted C. Ziemer, Jr.: Oh, if you get it to me, we'll get it back, we'll get it turned around quickly.

Jim Morley, Jr. : I assume you want the same kind of agreement that Joe Ream has?

Bill Jeffers: I would prefer just a flat statement that any shortage of detention accomplished on this lot will be compensated for or remediated in the next phase of development.

Jim Morley, Jr. : Okay, just something that simple?

Bill Jeffers: Something that simple. As long as it's legally binding and recordable.

Ted C. Ziemer, Jr.: Right, recordable.

Jim Morley, Jr. : I don't know legalese, but I could probably write something.

Bill Jeffers: I don't either, that's why I'm asking for help.

Ted C. Ziemer, Jr.: Well, if you give me the substance, I do know legalese.

President Musgrave: Well, how about we recess it for a week? if it's not ready in a week, we recess it for another week.

Commissioner Crouch: Recess the meeting, and then at the end of our Commission meeting next week we would reconvene this meeting in order to take action on that particular item?

Bill Jeffers: That's specific unfinished business, right.

Commissioner Crouch: Because I don't want to delay the development.

Ted C. Ziemer, Jr.: Sure, the only thing that I would ask the Surveyor and Mr. Morley is let's get with it immediately and get it to me so I can look at it early.

Jim Morley, Jr. : Sure.

Bill Jeffers: Yes, sir.

Jim Morley, Jr. : Do you want me, Bill, to send it to you first for review and comment?

Bill Jeffers: Sure.

Jim Morley, Jr. : Then—

Bill Jeffers: That would be great, and I'll forward it to Mr. Ziemer.

President Musgrave: So, do I hear a motion to recess the matter of the William S. Hirsch Subdivision preliminary drainage plan to March 1<sup>st</sup> immediately following the Commission meeting adjournment?

Commissioner Nix: I'll make that motion.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

Jim Morley, Jr. : Thank you for your time.

President Musgrave: Motion carries. Thank you. We move now to Cross Pointe Subdivision, Section Seven, it says final drainage plan.

Bill Jeffers: Right, I apologize for, on the first page I had put preliminary plan at the top, even though I mentioned on the agenda that it's final plan. It should have said final plan at the top of your previous page. I also will try to bring these to you cut and dried. I know you don't like to hammer these things out in a meeting. They should be cut and dried when they come to you, and the rest of them are. So, we'll proceed. Although, I will say your drainage code allows a petitioner to come before you regardless of the, in fairness, that's the way it reads.

**Cross Pointe Subdivision: Section Seven: Final Plan**

Bill Jeffers: Cross Pointe Subdivision, Section Seven is a final drainage plan. It's located north of Virginia, east of Burkhardt, west of Cross Pointe Boulevard. It's part of a continuing development by Regency Land Corporation, comprised of 21 3/4 acres zoned C-4 for immediate commercial development. There are no specific concerns regarding this. The plan meets all requirements of the drainage code. The County Surveyor recommends approval of the plan to allow the development, and that will allow the developer to record the plat and obtain building permits for individual lots.

President Musgrave: Does the petitioner have any comments? Are there any remonstrators? Is there a motion?

Commissioner Nix: I make a motion that we approve it.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you.

**Creekside Meadows Subdivision: Preliminary Plan**

Bill Jeffers: The next one is Creekside Meadows Subdivision, it's a preliminary drainage plan, residential, very large. It's north of Earle, west of Daylight, north of Schlensker Creek on the east side of Princeton Road. Excuse me, Petersburg Road. It's also west of State Road 57 and Green River Road. Hornby Lane bisects this development. It's 124 acres of rolling cropland that drains to Schlensker Creek. It's a preliminary plan that substantially comports with the county drainage code. It's, as a preliminary plan, it's subject to detailed revisions and additions to qualify for a future submittal as a final drainage plan. The major concern with this would be, it will require in the future plan approval and permits from the Department of Natural Resources, and possibly the Corp of Engineers for construction in a floodway of

some drainage facilities. There is a dedicated, there will be a dedication of an off-site drainage easement for construction and maintenance of the drainage facilities. So, there will have to be a legally binding agreement in the future brought to us, capable of being recorded that assigns rights and responsibilities to the off-site property owners, as well as possibly the homeowners association, to do that maintenance. I will be asking for grassy strips along the periphery of the subdivision to return down spout drainage to sheet flow before it flows off onto adjacent agricultural and residential property that's already been developed. A detailed erosion control plan must accompany the final drainage plan to satisfy Rule Five. The County Surveyor recommends approval of the preliminary plan. Approval would allow the primary plat to move forward to Area Plan Commission. I have a date correction, that's now being, those meetings have been changed to a second Thursday of the month at 4:00 p.m. So, it will go to Area Plan Commission, if approved here, on March 10<sup>th</sup> at 4:00 p.m. The developer's representative, Mike Zehner, is here, as well as the consulting engineer from Morley and Associates, Ron London, if there are any questions.

President Musgrave: I may have misidentified our last vote as being for Creekside. I was reading off my papers and not off the agenda. I just want to make sure that the record shows that was for Cross Pointe Sub. So, we are now on Creekside. Are there any comments by the petitioner, or anyone else?

Bill Jeffers: There may be some remonstrators on this one. It's pretty large.

Ron London: My name is Ron London, and I'm with Morley and Associates. I'm just here to answer any questions you might have on the development. But, as Bill said, I think we meet the requirements for the preliminary drainage plan, so.

President Musgrave: Are there any remonstrators? When you come to the microphone, be sure and state your name and address.

Bill Jeffers: Now, as the remonstrators approach, I would like to remind everyone that this is a preliminary plan. There is ample opportunity between now and the submittal of a final plan to incorporate any remedies or any finished details required to address any legitimate drainage concerns that may come up, either in this meeting or from the field. It also gives ample opportunity for the consulting engineer for the developer to meet with the remonstrators, if there is something that we've overlooked out in the field that is a legitimate drainage concern.

President Musgrave: Your name?

John Pfender: My name is John Pfender. I live right across the street. I live at 13710 Petersburg Road, which is directly across the street from this development. My main concern on this drain is the sewage drain, the waste, not the run off water from your down spouts, but I'm talking about your waste water to sewers. I was wondering if this is going to be extended to the west side of Petersburg Road where people, existing homes there will be able to tap into this? That's the only thing as far as I'm concerned. The road condition is another meeting.

President Musgrave: Is the County Engineer here, or anyone who can address that point?

Bill Jeffers: I think Mr. London can address that. It's a sanitary sewer issue, it's not a storm water drainage issue, is that correct, sir?

John Pfender: Yes, sir, that's what I'm speaking of.

Bill Jeffers: As to where the location of the sanitary sewers will be, and if they will be available to tap in by adjacent neighbors.

Ron London: The sanitary sewer will be extended throughout the site with a gravity sewer, so, there won't be any field beds on site. As far as the sewer being extended, right now we're just in the preliminary stages of working on the sanitary sewer plan, so, I can't answer that at this time. That's something that I have to talk with the developer and the Evansville Water and Sewer Utility, who would approve any plans that we would submit before them, along with the Indiana Department of Environmental Management.

President Musgrave: When would that information be available for him? At what point?

Ron London: I would say sanitary sewer plans would be available in the next month, month and a half.

President Musgrave: Should he contact you?

Ron London: He can contact myself, that's probably the best remedy, and I can give him my card, and I can let him contact me whenever we get to that point.

President Musgrave: Is there anyone else to speak to this matter?

John Pfender: John Pfender again. My concern on this is that my neighbor next door to me has said he has seen a plan, he told me this two or three years ago that there was a plan to run a sewer line up the back side of my property, and to connect all of our people up and down Petersburg Road onto a sanitary system, to do away with field beds, and one thing or another. That's the part that I'm wondering if the city or the county was going to pursue that in anyway? Or are we going to be able to tie in? That's my question, is whether we're going to be able to tie in?

Commissioner Nix: I would think that would be a question you would need to take up with Evansville Water and Sewer. The county, I don't think the county would have any involvement with that at all.

John Pfender: Okay. Well, like I say, my neighbor said he thinks it's going to be there one of these days, but I—

Commissioner Nix: Yeah, if you call down tomorrow and ask for engineering, I think they're over on Allen's Lane, they could probably help you over there.

John Pfender: Alright, thank you very much.

Commissioner Nix: You're welcome.

President Musgrave: Thank you.

Bill Jeffers: Mr. Pfender, you can pick up a business card from Ron London.

John Pfender: I already got one.

Bill Jeffers: Okay, good.

John Pfender: Thank you very much.

Bill Jeffers: Thank you, sir.

President Musgrave: Is there a motion on this?

Commissioner Crouch: I'll make a motion that we approve the preliminary plan for Creekside Meadows Subdivision.

Commissioner Nix: I second that.

President Musgrave: Any discussion? All those in favor say aye?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>McCutchan Estates, Section Three: Preliminary Plan</b>
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President Musgrave: Next, and I'll read from the agenda, is McCutchan Estates, Section Three, preliminary drainage plan.

Bill Jeffers: Okay, Commissioners, this is another preliminary drainage plan for McCutchan Estates, it's located east of Baumgart Road, north of Heinlein, west of Old Petersburg. It's in McCutchanville proper. It's north and west of Ashmore Estates, twelve acres of rolling land that drains to Little Pigeon Creek. This is a preliminary plan that involves, evolves from a previous plan that was approved in 1987, when we had a less restrictive drainage code. This plan is a substantial upgrade of the previous plan, and comports with the newer drainage code. Again, a preliminary plan is always subject to detailed revisions and additions for later qualification as a final drainage plan. Any concerns that we may run across regarding specific issues can be resolved in the final submittal. We do find that some erosion, sediment and flow characteristic control measures are going to have to be added to the final submittal to satisfy Rule Five. That, of course, will be done. The County Surveyor recommends approval of the preliminary plan for Creekside, oops, another typo, for McCutchan Estates, Section Three. Your approval will allow the primary plat to move forward to Area Plan Commission on March 10, 2005.

President Musgrave: Are there any comments made by the petitioner for this? McCutchan Estates? I see none. Is there a motion?

Commissioner Crouch: Remonstrators?

President Musgrave: Are there any remonstrators?

Commissioner Nix: I make a motion that we approve Section Three, McCutchan Estates preliminary drainage plan.

Commissioner Crouch: Second.

President Musgrave: Any discussion? All those in favor, please say aye?



All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Heritage Park Subdivision: Phase II: Preliminary Plan</b>
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President Musgrave: We move now to Heritage Park Sub, Phase II, preliminary drainage plan.

Bill Jeffers: Heritage Park, Phase II is a preliminary drainage plan. It's located south and adjacent to Lynch Road, east of Green River. It's across from the Evansville Day School. It's north of and immediately adjacent to the Schnuck's Market Plaza. It's an extension of Heritage Park Subdivision, Phase I, which is planned to house Black Buggy Restaurant. Phase II plans to house Cinergy Communication, on lot seven. It's 25 acres of flat farm ground, zoned for commercial use. The developer has already excavated a long, narrow borrow pit on the south boundary to acquire fill. The entire area, or some of the area drains northeasterly into Crawford Brandeis Ditch. Most of the area, after development, will drain into this borrow pit. It's a preliminary plan subject to revisions to qualify for a final plan. I want to point out that there's been some indication from the developer's side that there is a rush forward in this development to try and accomplish things very quickly. I want them to notice, I want the developer to notice that a preliminary plan approval is not to be considered as a go ahead. This plan is not a construction drawing from which to estimate costs, order materials, or complete excavation, grading, and installation of the storm sewer system. This is simply a preliminary plan. I want the developer to firmly understand that. He will have to come back with a final plan before he gets a building permit and moves forward. The recommendation by the County Surveyor is to approve the preliminary plan for Heritage Park, Phase II. The approval will allow the primary plat to move forward to subdivision review committee on March 8<sup>th</sup>. Then to Area Plan Commission on April 14<sup>th</sup> as a primary plat. Then it can come back to us as a final drainage plan in the April drainage board meeting with all the finished details that would qualify it to go forward as a construction plan.

President Musgrave: Does the petitioner have any remarks? Is there a motion?

Ted C. Ziemer, Jr.: Remonstrators?

President Musgrave: I'm sorry. Are there any remonstrators here for Heritage Park? I didn't think I saw any.

Commissioner Nix: I make a motion that we approve Heritage Park, Phase II, preliminary drainage plan.

Commissioner Crouch: Second.

President Musgrave: All those in favor say aye.

All Commissioners: Aye.

President Musgrave: And the motion carries.

Madelyn Grayson: May we make a tape change please?

President Musgrave: Yes.

(Tape change)

**EMC: Campground Road to Volkman Road Water Main Extension**

President Musgrave: We move now to EMC: Campground to Volkman water line extension.

Bill Jeffers: This is a city water line extension that runs from Campground Road, up there at the top of, by Old State Road, a brand new water line runs all the way out 41 to Volkman Road serving the industrial corridor. They've already started the water line extension, and in the county jurisdiction it runs along the west side of U.S. 41 north from Petersburg Road. The drainage board's specific areas of concern are when it crosses Pond Flat Lateral A, about a quarter mile north of Baseline. Then it will cross Pond Flat Main about one mile north of Baseline. Then it will cross Pond Flat Lateral D about one and a half miles north of Baseline, just south of Ameriqua. The drainage statute requires the drainage board to grant written permission to make a utility crossing of a regulated drain. The crossing must be installed in accordance with the Surveyor's specifications. The County Surveyor has received details that are sufficient to establish that the plan comports with the Surveyor's specifications. I have the plan here, it covers everything that was requested. The County Surveyor recommends approval of the plan shown on sheets 33, 36, 37, and 42 of a plan entitled "City of Evansville, Indiana Waterworks Improvements, Part B, Campground to Volkman Road Water Main". The plan was submitted by Jason A. Davis of Reynolds, Incorporated, who is the contractor to install the water line.

President Musgrave: Is the petitioner here to comment on EMC: Campground?

Bill Jeffers: I told them that it wouldn't be necessary. Everything was in order.

President Musgrave: That would be why there's no one here. I will ask for remonstrators, and I see none of those either. Is there a motion?

Commissioner Crouch: I'll move approval of EMC: Campground to Volkman water line extension.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Motion carries.

**Surveyor's Annual Report on Regulated Drains**

President Musgrave: Now we move to receive the Surveyor's annual report on regulated drains.

Bill Jeffers: I believe I distributed a copy of that to each of you. It's a report that's required by statute. It details the conditions of the regulated drains that the board

administers. It recommends specific maintenance and repair activities on a drain by drain basis.

President Musgrave: Then, do we need to—

Bill Jeffers: I'm simply asking you to receive it, and consider it my annual report.

President Musgrave: So received. I'm not sure we need to have a motion on that.

<b>Approve Specifications for Drain Repair and Maintenance</b>
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President Musgrave: Now you are going to ask us to approve specifications for drain repair and maintenance?

Bill Jeffers: That's correct. Here are the annual specifications. There should be enough copies for everyone at the table.

President Musgrave: Do we have to read it at this present meeting.

Bill Jeffers: No, Ma'am. I don't think that that would be advisable, unless you have some No Doze available. It's a set of general specifications. They are short and sweet. It has special provisions that accompany the Surveyor's annual report. Together they address repair and maintenance needs called out in the report. The special provisions include individual bid schedules that are tailored on a ditch by ditch basis. Those bid forms had been approved by the State Board of Accounts, and can be used, and have been used for several years by the county. What they do, the bidders just fill those out, notarize their signatures, attach them to their official bids forms. The County Surveyor recommends the board approve these general specifications and special provisions for use in seeking bids, letting contracts, and completing the repair and maintenance of all of our drains in 2005.

Commissioner Nix: I'll make a motion that we approve.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Permission to Advertise: Notice to Bidders for Annual Ditch Maintenance</b>
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Bill Jeffers: Okay, to authorize advertisements for invitation to bid. By this time, you've probably picked up that what, my typical mode of operation is to take previous documents and update them year to year, etcetera.

President Musgrave: Okay.

Bill Jeffers: So, the bid form that you find at the back of my package I just handed you has a typo in it. It still says March 22, 2004 on the notice to bidders. I'm distributing a fresh copy of a notice to bidders.

Commissioner Nix: The one I've got says March 22, 2005, Mr. Jeffers.

Bill Jeffers: Wow, I can't believe it! The one we put on line had 2004 and had to be corrected.

Commissioner Crouch: Okay, so we don't need this, do we?

Bill Jeffers: Well, anyway those are originals that your secretary should have one, and one needs to be signed. This is a notice to bidders that should be advertised later this week, and again next week, allowing sufficient time for bidders to bring their bids to Ms. Grayson in room 208, the Auditor's office. Normal procedure requires, I'll sign this one and pass it on down, it requires all of our signatures, plus Mr. Fluty's.

Commissioner Crouch: Do you need a motion to authorize advertisement for invitation to bid?

Bill Jeffers: Yes, please.

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Set Bid Opening Date for March 22, 2005</b>
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President Musgrave: We now receive the Surveyor's recommended language for code amendments.

Commissioner Crouch: Well, we have to set the date for the bid opening.

Bill Jeffers: Oh, I'm sorry.

President Musgrave: Sorry.

Bill Jeffers: Yes, the bid opening would be March 22, 2005.

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That carries.

**Surveyor's Recommended Language for Code Amendments**

Bill Jeffers: The County Engineer is still here. He's a dedicated fellow to have to sit through this. This is the proposed language for amendments to the drainage ordinance. There's several copies here. There's a copy in your package. I presented a preliminary report last month. I presented one to the previous Commissioners last year at the end of the year. Here are some pictures of damaged and deflected pipes. The first three pictures are in Vanderburgh County. The following 14 or so pictures are from other localities in Indiana, Indianapolis, etcetera, just showing what can happen to flexible pipe, if it's not installed properly it gets squashed down or deflected, or it cracks, etcetera. When we wrote the drainage ordinance in 1994, this was a new product. I don't know if they want to see those or not.

President Musgrave: It looks like a sonogram from here.

Bill Jeffers: Yeah, it looks kind of like an ultrasound.

Commissioner Nix: I've seen enough of them.

Bill Jeffers: I've seen all those I hope I ever see in my life. The language we are proposing here is taken from a variety of sources within the state of Indiana, other municipalities that have encountered the same problems, and have come up with these, this language to insert into their code to address it. What do I propose here?

Commissioner Crouch: That we accept it?

Bill Jeffers: That you take this as suggested code revisions, forwarded them to the County Engineer for his comments, suggestions and additions or deletions. Then have some proposed amendments, phrased legally by your County Attorney, and introduced to the Commissioners, Board of Commissioners, where, that's the only place you can do code revisions, through required hearings, public comment period, and, hopefully, an eventual incorporation into the county drainage code.

Commissioner Crouch: We'll move that all that happens.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

Commissioner Nix: Bill, on this, just real quick, 30 seconds or less. The mandrel test, is this something that you, not you, but your department will do? Or is this something that you'll have certain people that are certified go out and do?

Bill Jeffers: That would be certified laboratories that are qualified to do it.

Commissioner Nix: Okay.

Bill Jeffers: Would do it at the cost of the developer in the presence of the County Engineer or his authorized inspector.

Commissioner Nix: Thank you.

**Other Persons Wishing to Address the Board**

President Musgrave: Alright, where are we now? Is there anyone else here wishing to address the board? No one is moving toward the microphone.

**Ditch Maintenance Claims**

President Musgrave: Are there claims to pay?

Bill Jeffers: Yes, Ma'am.

President Musgrave: And we can just have a motion to approve the claims?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor say aye.

All Commissioners: Aye.

**Petitions and Encroachment Agreements**

President Musgrave: Are there any petitions and encroachment agreements? I don't think we have any petitions and encroachment agreements. Is that correct, Mr. Jeffers?

Bill Jeffers: That is correct, Madam Chairlady.

**Comments, Correspondence, Reports and Other Pending Business**

President Musgrave: Are there any comments, correspondence, reports and other pending business?

Bill Jeffers: Yes, Ma'am. Mr. Andy Easley called this morning and reported two trees have fallen down in the channel of Pigeon Creek just downstream on the west side of the Green River Road bridge, and says that these trees are already collecting debris and will likely form a log jam this spring under the bridge over Pigeon Creek—

President Musgrave: What action do we need to request?

Bill Jeffers: —if they are not removed. I would forward this to the bridge department, would you say, John?

President Musgrave: The County Highway?

Bill Jeffers: The County Highway Bridge Department, see if there's any money available to remove these trees.

Commissioner Crouch: So moved.

President Musgrave: I'll second it, if there's no other second.

Commissioner Nix: Second.

President Musgrave: All those in favor say aye.

All Commissioners: Aye.

President Musgrave: Motion carries. Will you do that, Mr. Jeffers? Contact the Highway Department?

Bill Jeffers: Yes, Ma'am.

President Musgrave: Thank you, sir. Is there no other business?

Bill Jeffers: I have one other thing.

Commissioner Crouch: Just like the Eveready bunny.

President Musgrave: And that thing might be what?

Bill Jeffers: Ad infimum or nauseum, take your choice.

Ted C. Ziemer, Jr.: You're lucky the Sheriff's gone.

Bill Jeffers: Oh, brother. Okay, simply put, J.H. Rudolph wants to proceed with a plan, they've got their permit from the Department of Natural Resources, but they have not come through you to establish a crossing of a regulated drain and stock piling of material, possibly within the 75' right-of-entry. I've prepared this letter, I've already sent it to them, it doesn't require your action until they come to you with a plan.

President Musgrave: Do you want to table this until next week at our next meeting?

Bill Jeffers: I'm just informing you that I've sent this, in case you all have got anybody that calls you, you'll be—

President Musgrave: Okay, in which case, it appears to me that we've completed the business.

Commissioner Crouch: Exhausted the agenda.

President Musgrave: Is there a motion to adjourn?

Ted C. Ziemer, Jr.: No.

President Musgrave: No, recess until next Tuesday after the Commission meeting.

Commissioner Nix: I make a motion we recess until next Tuesday after the Commissioners meeting.

Commissioner Crouch: And I'll second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: We are recessed.

**(The meeting was recessed at 5:15 p.m.)**

**VANDERBURGH COUNTY DRAINAGE BOARD  
MARCH 1, 2005**

The Vanderburgh County Drainage Board meeting recessed on February 22, 2005 was reconvened on March 1, 2005 at 4:02 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

Commissioner Crouch: Mr. Jeffers? This is just like home, no one pays any attention.

Commissioner Nix: He's coming.

<p><b>William S. Hirsch Subdivision: Final Plan Covenant and Agreement</b></p>
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Commissioner Crouch: Vanderburgh County Board of Commissioners is reconvening their drainage board meeting of last week, which was February 22<sup>nd</sup>. At this point in time I will ask that the County Surveyor, Mr. Jeffers, apprise the board as to where we are with the action that we have before us.

Bill Jeffers: Okay. The sole matter of business before you is to finish unfinished business regarding William S. Hirsch Subdivision, final drainage plan, which required an agreement between the applicant and the drainage board with regard to accounting for the undetained storm water discharge from that subdivision as planned, as presented to you in the plan. Mr. Ted Ziemer and myself discussed this this morning before noon, trying to address the most appropriate wording to coincide with the intent of the drainage ordinance that's codified in section 13.04 of the County Code, to accomplish what the intent, as expressed by the County Surveyor and the board at last week's meeting. Mr. Ziemer came up with a covenant and agreement proposed to be entered into between David Hirsch, general partner of the Hirsch Family Limited Partnership and the Vanderburgh County Drainage Board. Do you have that in front of you at this time?

President Musgrave: I do.

Bill Jeffers: The County Surveyor agrees totally with the intent of this covenant and agreement, and recommends that the board offer to enter into this covenant and agreement with the Hirsch Family Limited Partnership in order to accomplish the lawful and appropriate resolution of the matter.

President Musgrave: Do the petitioners have any remarks?

Jim Morley, Jr. : No.



Don Fuchs: Don Fuchs on behalf of the Hirsch Family Limited Partnership. We've reviewed this document as Mr. Ziemer has prepared. We were provided this this afternoon. Our client is in agreement with this and will sign this, if it's acceptable to you.

President Musgrave: I checked with the County Engineer and he finds it to be agreeable, so, I will make a motion to accept the covenant by the Hirsch Family Limited Partnership.

Commissioner Nix: I second that.

Commissioner Crouch: All in favor?

All Commissioners: Aye.

Commissioner Crouch: So ordered.

Ted C. Ziemer, Jr.: If I may, I just want to comment. We were provided with a draft of the covenant proposed, originally, by the Hirsch Family Limited Partnership the middle afternoon Friday, after I had already left for a meeting, from which I was not going to get back to the office. So, yesterday and today are the first opportunity that we had to get it to you. We're sorry that we got it as late as it was, but to get this done this afternoon, that was the best we could do.

Don Fuchs: No, and, Mr. Ziemer, we appreciate your work on this in getting this done, and moving this project forward.

Commissioner Crouch: Thank you.

Jim Morley, Jr. : Does the acceptance of that covenant therefore stand as approval of the plans? Or is that a separate motion?

Ted C. Ziemer, Jr.: No, the Commissioners will now have to vote to grant the variance requested.

President Musgrave: Is there any discussion on the variance itself? Hearing none, I'll ask for a motion.

Commissioner Nix: I make a motion that we grant the variance.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Is there any further business to come before the drainage board?

Bill Jeffers: Just on behalf of the drainage board and the County Surveyor, we wish you and your client speedy completion of your project, and build out of all the projects associated with that 46 acres. Thank you for your cooperation.

Don Fuchs: Thank you for your help.

Madelyn Grayson: I did have one question, will the county be recording that document? Doesn't it have to be recorded? Or would the Hirsch Family Trust be recording that?

Ted C. Ziemer, Jr.: Actually, I don't think the document needs to be recorded. What will happen, as they proceed with development, they're going to have to come before the County Drainage Board for approval of their plans, and the covenant is to the County Drainage Board, and nothing will happen unless it meets the terms of the covenant.

President Musgrave: I assume that you will have this in your file, Mr. Jeffers?

Bill Jeffers: I do at this time. I'll get a copy of the signed document from your secretary, and also put that in my file, thank you.

President Musgrave: Okay. Is there a motion to adjourn?

Commissioner Nix: Motion to adjourn.

Commissioner Crouch: Second.

President Musgrave: We are adjourned.

(The meeting was adjourned at 4:06 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Bill Jeffers  
Jim Morley, Jr.  
Don Fuchs

Bill Nix  
Ted C. Ziemer, Jr.  
Ron London  
Others Unidentified

Suzanne Crouch  
Madelyn Grayson  
John Pfender  
Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
MARCH 22, 2005**

The Vanderburgh County Drainage Board met in session this 22<sup>nd</sup> day of March, 2005 at 4:04 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: I would like to call to order the March 22<sup>nd</sup> meeting of the Vanderburgh County Drainage Board.

**Approval of February 22, 2005 & March 1, 2005 Drainage Board Minutes**

President Musgrave: The first item on our agenda is the approval of the minutes of the previous meeting.

Commissioner Crouch: Move approval.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That is approved.

**Open Bids for Annual Maintenance of Regulated Drains**

President Musgrave: Now we are to open bids for the annual maintenance of regulated drains. Do I hear a motion?

Commissioner Crouch: I move opening bids for the annual maintenance of the regulated drains.

Commissioner Nix: Second.

President Musgrave: Any discussion? All those in favor?

All Commissioners: Aye.

President Musgrave: That is approved. If you will go ahead and begin the opening of the bids. Are there plans that we can discuss while the bids are being opened?

Bill Jeffers: Well, sure, there's always plans to discuss.

**McCutchan Estates, Section III: Final Plan**

President Musgrave: Shall we start with McCutchan Estates, Section III, final plan?

Bill Jeffers: Let's do. McCutchan Estates, Section III is an expansion of an existing residential development commonly known as Ashmore Estates, located west of Old Petersburg Road, north of Heinlein Road in the McCutchanville neighborhood north

of the airport. The approval of this final drainage plan for McCutchan Estates, Section III will allow the recording of the subdivision plat and the issuance of building permits for 17 new homes. The final drainage plan substantially conforms to the county drainage code. The County Surveyor recommends approval of the plan. The design engineer representing the developer is available at this time. The board may wish to ask for public comment before voting on approval.

President Musgrave: Is there anyone to speak to the McCutchan Estates, Section III, final drainage plan? If you would, state your name and address when you come to the microphone.

Glen Merritt: My name is Glen Merritt with Morley and Associates. I would be happy to answer any questions that you may have.

President Musgrave: Are there any questions? Is any member of the public to speak to these plans? I see none. Is there a motion?

Commissioner Crouch: I'll move approval of McCutchan Estates, Section III, final drainage plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

Glen Merritt: Thank you.

President Musgrave: Thank you, sir.

<b>CMH Subdivision: Final Plan</b>
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President Musgrave: Mr. Jeffers.

Bill Jeffers: Okay, our next subdivision is CMH Subdivision. Here is a copy of the plan if any members of the board would like to look at it. It's an expansion of the commercial use, southward from Rusher Road, or Rusher Creek Road, on the west side of U.S. 41, up at the I-164 interchange. The proposed use is a modular home display area. The approval of the final drainage plan for CMH Subdivision, which is up on the screen for those who would like to look at it that way, allow for the recording of the subdivision plat and the issuance of building permits based on Area Plan Commission's site review approval of the site improvement plans. That's in the process right now. The final drainage plan substantially conforms to the county drainage code, and the County Surveyor recommends approval of the plan. The design engineer representing the developer is available at this time. The board may wish to ask for public comment before voting on the approval.

President Musgrave: Is the engineer present?

Matt Wallace: My name is Matt Wallace. I work for Morley and Associates. I'm representative to the developer. I would be happy to answer any questions, if you have any.

President Musgrave: Are there any questions? Is there any member of the public here to speak to CMH Subdivision, final drainage plan. I see no one.

Commissioner Crouch: I'll move approval of the CMH Subdivision final drainage plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you, sir.

Matt Wallace: Thank you.

<b>7000 Pollack Avenue Condominiums: Final Plan</b>
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Bill Jeffers: Our next drainage plan to consider is 7000 Pollack Avenue Condominiums. It's a final drainage plan. Here's a hard copy if the members of the board would like to look at it. I don't have an aerial photograph to show you on the screen for this one, but I do have the area map in your packet showing you the location. This is immediately south of I-164, west of Chickasaw Park Subdivision, and north of the Angel Mounds area. This is out near the corner of Pollack and Fuquay Road.

Commissioner Nix: Fuquay?

Bill Jeffers: Approval of this final drainage plan will allow for the issuance of, no, hold on a second. Approval of this final drainage plan will allow for a building permit to be issued for the construction of the condominiums in accordance with the site improvement plans from Area Plan Commission. The final drainage plan substantially conforms to the county drainage code, and the County Surveyor recommends approval of the plan. The design engineer and the developer are both here and available at this time. The board may wish to ask for public comment before voting on the approval.

President Musgrave: If the engineer would come forward.

Lee McClellan: I am Lee McClellan with Morley and Associates, 230 Second Street, Henderson, Kentucky. I can answer any questions that you have. With me also this evening is John Mattingly with John Mattingly Homes, the developer of the 24 unit condominium project.

President Musgrave: The only question that I have is why there was no aerial photograph available of this?

Bill Jeffers: I just didn't pull one up on this one.

President Musgrave: Okay. Are there any other questions? Is there any member of the public here to speak to this condominium project? I see no one. Is there a motion?

Commissioner Nix: I make a motion that we approve.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you, sir.

Lee McClellan: Thank you.

President Musgrave: Mr. Jeffers?

<b>Heritage Park, Phase II: Final Plan</b>
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Bill Jeffers: Okay, we do have aerial photographs on most of them today, but we're trying to accommodate the board with those. I just haven't gotten my procedures all, all my ducks in a row just yet.

President Musgrave: I understand.

Bill Jeffers: We're getting there though.

President Musgrave: Okay.

Bill Jeffers: Heritage Park, Phase II is a final drainage plan. It's an expansion to the east of the commercial development of the Lant Davis property at the southeast corner of Lynch Road and Green River Road, north of the new Schnuck's market and across the street from Evansville Day School. Approval of the final drainage plan for Heritage Park, Phase II is one of the final steps towards recording the subdivision plats and issuing building permits based on Area Plan Commission's site review process, for the seven individual lots within this subdivision. At this time the final plan lacks specific detail, excuse me while I pass the plan down for the board members to look at. It lacks specific details that are required by the county drainage code. The County Surveyor has notified the design engineer who is here this evening regarding these required details. The developer wishes to proceed as quickly as possible towards approval of the plan, therefore, the County Surveyor recommends that the board continue this hearing of the final drainage plan for Heritage Park, Phase II by reconvening the meeting on April 5, 2005 for the purpose of completing this and other unfinished business. The reason I say that is the design engineer has indicated that he may be able to complete the required work in the next two weeks, and at the end of this meeting I'm going to ask that the board continue the meeting for two weeks for the purpose of examining these submitted bids, and coming back to you with recommendations for letting the contracts. That's standard procedure every year to do that, take them under advisement for two weeks. So, if you allow the continuance of this meeting to be reconvened on April 5, 2005 for that purpose, I would ask that you also consider any unfinished drainage plans at that time that were presented at this meeting.

Commissioner Crouch: I'll go ahead and make a motion at this time that we reconvene on April 5<sup>th</sup> for purposes of awarding the bids, and examining or hearing from Heritage Park, Phase II again.

Commissioner Nix: Second.

President Musgrave: Any discussion? All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. I do have a question on this, it says it's seven lots, do you mean these?

Bill Jeffers: Yes, ma'am.

President Musgrave: Because there's more than seven lots.

Bill Jeffers: Okay, it's the seven most eastern lots.

President Musgrave: Okay.

Bill Jeffers: The one, two, three, four, five, six, the seven lots you see to the west are Heritage Park, Phase I.

President Musgrave: Okay.

Bill Jeffers: We didn't label that area Heritage Park, Phase II. We put the label over here where Schnuck's is, because we didn't want to interfere with the layout, you know, confuse you with the layout there. Phase II that we're considering tonight is the seven most eastern lots on....oh, they gave me this to use. Here we go.

President Musgrave: Wow, ooh.

Bill Jeffers: Lot one, two, three, four, five, six, and seven, right there.

President Musgrave: Okay.

Bill Jeffers: This area over here is Phase I. It's already under construction. Black Buggy will go right there. First Federal submitted a plan for this lot here. Schnuck's is down here, and then these are all apartments.

President Musgrave: Alright. Moving on to the Metro Village, modified final plan.

Bill Jeffers: Before we move on, I'm getting to like this. I'm glad you suggested this, Ms. Musgrave. I like this whole idea here.

<b>Metro Village: Modified Final Plan</b>
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Bill Jeffers: Okay, Metro Village modified final drainage plan. Metro Village is a proposed development of lots five and lot six of Metro Center East, which, oh, let me pass the hard copy down to take a look at while I'm talking. Metro Center East, which is a commercial development located on the south side of Virginia Street, east of Metro Avenue, north of Lloyd Expressway, and west of Burkhardt Road. That's

a bookstore, that's our Stockfleth Ditch that runs right here, Nagasaki Inn and some of those other developments over on this side of the road, and Expressway Dodge is over this way, about right there. To satisfy parking and other site planning considerations the plan requires the encroachment of the statutory right-of-entry for Stockfleth Ditch, a regulated drain in Vanderburgh County. The developer offers an encroachment agreement, prepared on the approved county legal form, ready for recording. The County Surveyor will recommend approval of the encroachment agreement a little later in this meeting, where the agenda indicates such an action. The plan is a modification of a previously approved final plan for Metro Center East. At this time the modified final drainage plan for Metro Center lacks just a few small details required by the county drainage code. The Surveyor has notified the design engineer, Mr. Matt Wallace, who is here tonight, regarding the need for these certain details. They are related to the installation of the pollution control measures and the long term maintenance of some underground storm water detention. I'm just asking for a maintenance report and some other details. The County Surveyor recommends that the board preliminarily approve this modified plan for Metro Village at this time, and continue the hearing of this plan when the board reconvenes to finish other business on April 5, 2005, at which time Matt Wallace has indicated that he will have those details available for us.

Commissioner Crouch: I'll make a motion that we continue, preliminarily approve this, and continue it's hearing to our meeting on April 5<sup>th</sup>.

Commissioner Nix: Second.

President Musgrave: Any discussion? All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. We move now to Q-Comm Realty.

<b>Q-Comm Realty: Parcel/Lot 7: Heritage Park, Phase II</b>
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Bill Jeffers: Q-Comm Realty is lot seven, otherwise known as a parcel within Heritage Park, Phase II, which we just considered. The Q-Comm plan as designed depends on the overall drainage plan for Heritage Park, Phase II. Since the review and approval process for the overall plan is continued for two weeks, the County Surveyor recommends the continuation of Q-Comm's submittal for lot seven until the same time. Q-Comm is located right there, that's lot seven. It's accessed by this road. That's Lynch Road on the north. This is one of the accesses, and the other one is out here on Green River. The County Surveyor has notified the appropriate representatives of Q-Comm project that Q-Comm Realty may either present a sufficient drainage plan that stands alone, without depending upon the overall plan for Heritage Park. Or, they may wait for the board's approval of Heritage Park, Phase II, if Q-Comm wants to drain through that system. Right now there's a large borrow pit along the south line that was dug out here in the last several months. They plan on using that for detention, and then a ditch would run the water out here to Lynch Road right-of-way. Q-Comm plans on draining all their property into that basin, and that's what's holding up the approval process, because there's some unstable soils out in that basin that need to be addressed sufficiently. Now, if Q-Comm were to take all their property and drain it to a detention facility either under the parking lot or up here, and then out to, you know, independent of this drainage basin, they may do that, or they may wait for Phase II to be approved and drain to



that plan, through their plan. In either case the County Surveyor recommends the board extend the hearing of the Q-Comm Realty plan for two weeks, and reconvene on April 5<sup>th</sup> to reconsider that.

Commissioner Crouch: I'll make a motion that we continue Q-Comm's submitted plan until April 5<sup>th</sup>.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries. We move now to the add-on, AQ Realty, lots 14 and 16.

**AQ Realty: Lots 14 & 16: Cross Pointe, Section 3: Modified Final Plan**

Bill Jeffers: Now, what happened this month is that I had reviewed all the plans that you have before you tonight, and had sent out notices indicating what details should come back in, and I gave them a deadline of Monday at noon. Knowing what those details would have been, I could have reviewed everything Monday and today, and that's why we're having these continuations because those details did not come in, but since they were already on the published agenda, we're moving forward. In order not to prolong economic development during construction season, we want them to get started in a timely fashion. That's why I'm asking for these continuances. This one is not going to require a continuance. Here's the plan in hard copy. I don't have an aerial photograph to show you on this one, but I do have a hard copy in your packet showing you that AQ Realty is located on lots 14 and lot 16, Cross Pointe, Section Three. It's a modified final drainage plan, meaning that the board has already approved the final drainage plan, and this is a minor modification. The plan was added to the agenda after the agenda's publication, but ahead of the deadline set by the County Surveyor for Monday noon. AQ Realty is located on the west side of Cross Pointe Boulevard north of the Lloyd Expressway and kind of behind O'Charley's. The previously approved final drainage plan has been modified to remove some driveways and other structures around the back side of the building and now does not require the encroachment into the drainage easement, as previously planned, or the enlargement of the existing detention basin, as previously approved. The board's approval of the modified final drainage plan for AQ Realty will allow for the issuance of building permit based on Area Plan Commission's commercial site review approval of the site improvement plan for the project, which is on their table at this time. The plan conforms to the county drainage code. The County Surveyor recommends approval. The design engineer is available. The board may wish to ask for public comment before voting on the approval.

President Musgrave: If the engineer can come to the podium. State your name for the record.

Jon Kipling: I'm Jon Kipling working with Morley and Associates.

President Musgrave: Are there any questions? Is there any public comment? I see none.

Commissioner Crouch: Motion to approve AQ Realty the final drainage plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Encroachment Agreements</b>
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President Musgrave: We now move on to encroachment agreements.

Bill Jeffers: Tonight we have two encroachment agreements. I'm going to give you a copy of the first one. Matt Wallace has the official original, along with a check for the cost of the recording. What I'm passing here across the table is the exhibits that go with it to show you where it's located. It's Metro Village, we previously talked about the plan. It's lot five and lot six Metro Center East. The developer asked the board to allow the encroachment of the right-of-entry of Stockfleth Ditch, with certain permanent structures as shown on the submitted documents, a copy of which I've passed down the table. This is to allow the development of a commercial building shown on those documents. I've included the state statute in the packet, directly above the page that I'm discussing now. Stockfleth Ditch is a regulated drain in Vanderburgh County. Indiana Code 36-9-27, section 33 allows private property owners to place permanent structures within right-of-entry with the written permission of the board so long as the use is consistent with the code and does not interfere with proper operation of the drain. The board has approved a form of the agreement by which the property owner indemnifies and insures the county against any loss or damage that may occur as a result of the encroachment. The property owner and the developer of Metro Village submits his agreement, ready for recording, I believe Matt Wallace has it with him at this time. The County Surveyor recommends the board approve the agreement, and that that agreement will constitute written permission to encroach the right-of-way.

President Musgrave: The right-of-way?

Bill Jeffers: The right-of-entry, excuse me.

President Musgrave: Thank you. Is there any questions or discussion?

Commissioner Crouch: Seeing none, I'll move—

Matt Wallace: I would like....could I interject something? I'm sorry.

Commissioner Crouch: Make it quick.

Matt Wallace: I have the agreement and the check for the recording. The developer was supposed to meet me here. Oh, I'm sorry, that's my boss. He was supposed to meet me here, with the changing of the time and the date, he recognized that the date had changed for the meeting to Tuesday, but he thought it started at 5:00. So, he's on his way. So, it's not signed, but I am waiting for him to arrive. If you would

like to continue this along with the final approval of the plan to the next meeting, that's fine with me. But, I don't actually have a signed agreement right this second.

President Musgrave: Do you just want to step aside, and perhaps he'll show up by the time the meeting is over?

Matt Wallace: That would be great. I just didn't want for you to go too far before I actually had a signed agreement.

President Musgrave: Alright.

Matt Wallace: But, he is on his way, so I'm told.

President Musgrave: Well, we have a few more things to do.

Matt Wallace: Great.

President Musgrave: So, just hang back—

Matt Wallace: Okay.

President Musgrave: —and we'll move on to Royal Car Wash, lot 20, Eagle Plaza.

Bill Jeffers: Okay, this is another one represented by Matt Wallace, standing before you at the podium. Royal Car Wash, I'm passing down the exhibit for you to look at, is lot 20 in Eagle Plaza Subdivision. The owner of lot 20, Eagle Plaza Subdivision, which is on Pearl Drive south of the Lloyd Expressway between Red Bank Road and Boehne Camp Road, requests that the board approve an encroachment agreement to allow the construction of a parking lot across part of a 40 foot wide drainage easement along the west line of lot 20. The owner submits a properly completed, I hope—

Matt Wallace: Yes.

Bill Jeffers: — easement encroachment agreement ready for recording. The board has already approved a similar agreement for Fifth Third Bank on the adjoining lot 21. The County Surveyor recommends approval of the easement encroachment agreement for Royal Car Wash, Red Bank Development LLC, lot 20, Eagle Plaza Subdivision.

President Musgrave: Are there any questions? Any discussion?

Commissioner Crouch: Seeing none, I will move approval of the easement encroachment for Royal Car Wash.

Commissioner Nix: Second.

President Musgrave: Thank you.

Commissioner Crouch: Aye.

President Musgrave: Oh, all those in favor?

All Commissioners: Aye.

President Musgrave: Sorry. That ends—

Bill Jeffers: Then those are going to require, does that require a Surveyor's signature?

Madelyn Grayson: The Auditor and the attorney.

Bill Jeffers: Auditor and attorney, okay. These agreements that are...the one that you are waiting for the owner and this one require your signatures, the Auditor's and the County Attorney, before recording. Thank you.

Matt Wallace: I do have the developer here for the Metro Village as well now. I can have that signed here in a moment and notarized.

Commissioner Crouch: With that, I'll move approval of the Metro Village encroachment agreement.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That is approved.

Matt Wallace: Thank you.

<b>Public Comment</b>
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President Musgrave: Is there any public comment at this time? I see none. Are there any claims?

Bill Jeffers: Before we move to claims—

Commissioner Nix: I think we've got somebody coming up.

President Musgrave: Are you here for public comment? No?

Bill Jeffers: Mr. Gillies, did you want to make a comment?

Don Gillies: I'm sorry. (Inaudible). Okay, yes, I do.

President Musgrave: Please come forward.

Bill Jeffers: Mr. Gillies thought that the public comment that we were asking for regarded Metro Village, I believe.

President Musgrave: Oh, I'm sorry for not making that more clear.

Don Gillies: I thought that you were asking for comment on the other.

President Musgrave: Please state your name and address for the record.

Don Gillies: Yes, my name is Don Gillies. I am president of a condominium association within the Oak Meadow Subdivision. I'm sorry I didn't have the photographs that you have here, but the GIS system was unavailable for our particular area. Also, I don't have the pictures and everything, but please allow me to share with you this map that I will be talking about. Okay, does that look pretty professional?

Bill Jeffers: That looks good to me, Mr. Gillies. Do we have any tape, or?

Don Gillies: No, I'm fine. Oh, you're going to hold it? Okay, thank you.

Bill Jeffers: An easel maybe.

Don Gillies: Thank you. Okay.

President Musgrave: Thank you, Brenda.

Don Gillies: Allow me to please refresh or state the problems here. In 1986 National City Bank put a ditch through the center of this condominium association to divert water that was flowing from the western edge down into our particular condominium group. This was to prevent further flooding under the condominium complex known as phase three. That's the one that I represent. This land was then purchased by Bauer Homes. On June 10, 1993, the officers of phase three met with Keith Poff of Morley and Associates at the direction of Bauer Homes. This was to discuss our concern of any change in land slope that would promote the runoff water from, again, flooding on to the eastern boundary of the buildings, which is this area here. As the building progressed, the ditch became filled with debris and mud. This allowed the runoff water again to jump the ditch, and again flood the back of the condominiums. The slope of the land was also changed significantly to allow the water velocity to increase greatly. Not only causing flooding, but also causing erosion. The runoff water is not only rain water, but is now also the in ground sprinkling system. In 2002, at the prodding of Mike Wathen, Bauer Homes cleared the ditch. We informed Mr. Wathen that we would see how the ditch would hold up and let him know if there were any particular problems. In March 2004 we felt the water problem was once again intolerable. This is when we contacted Mr. Jeffers, who guided us through the Drainage Board in hopes at arriving at a satisfactory solution. As for phase three, we have done all that we know how to do. We have spent thousands of dollars putting in french drains, cement troughs that served as mini aqueduct. I personally have spent over \$2,500 to raise the level of my backyard. We fixed down spouts and drains, put in gutter guards, and took other means to prevent excess surface water. However, the cascading water has not only created a mass of mud, but has also scoured the land, which has caused, for example, the cement slab holding the electrical transformers to drop off on one end. It has also bared the cables used by cable t.v. Drawings from Morley and Associates that were dated and approved in June 1994 show that the drainage concerns for this land had offered a retention pond as part of a possible solution. However, the pond was never put in, nor was there ever another drainage plan submitted for approval. We have discussed this problem with the Drainage Board several times, the last of which was September 27, 2004. I'll just quickly read for you a couple of the statements from that meeting.

“Don Gillies: What you're telling me then is that the maintenance of that ditch, and the cleanliness of it, or cleaning it out or fixing it is the responsibility of the owner

of the land that that ditch is on? President Mosby: Yes.  
Bill Jeffers: That's correct now, and that has always been correct. From day one it has always been the responsibility of the property owner to maintain and repair the drainage facilities in a condominium and/or apartment project. Don Gillies: Okay, that is fine, then, because that is not on our land. Bill Jeffers: Okay. Don Gillies: That is on their land. Bill Jeffers: Yes, sir. The determination of who's land it's on would be the responsibility of whoever is interested in finding out. You know, if there's any question as to where the property line is— President Mosby: Right. Bill Jeffers: —that would be up to the person who is interested in discovering that.”

Don Gillies: At that time Mr. Bauer spoke.

“Buddy Bauer: I might have done my condo owners a disservice, because during the construction process, or trying to build these units, I know that we made a conscious effort to enlarge the ditch, and we did it on our property, because we wanted to save the trees. So, I think they would say we would be happy to maintain it as long as we, the trees are not going to be taken down. Finally, I think, I would suggest that there is nothing that precludes Mr. Gillies from putting another small ditch in his backyard that might possibly, you know, be another conduit to take water to the north off of Oak Meadow. Maybe the two of them together would work in severe situations. President Mosby: One more comment. Don Gillies: When I got the new plans and drawings, I talked to Mr. Danny Leek over at Morley and Associates, and he said he was quite familiar with what was going on, and he saw, in fact, he helped us with the plans. His comment was, it would be extremely easy just to clean one side of that ditch, put some rip rap in, and he said that would slow down the velocity and help carry it north. Bill Jeffers: Yeah, I agree with Danny Leek's assessment. That would have been something we had talked about earlier that one, I would say the side facing Mr. Gillies property could be improved and the embankment built up or reinforced with rip rap would probably serve to keep the water in the ditch. I believe that is something we had proposed at one time, some time ago.”

President Musgrave: Brenda, you can just. Yeah.

Don Gillies: I'm sorry, you don't have to....her poor arms are going to fall.

President Musgrave: Thank you.

Don Gillies: (Continues reading from the 9/27/04 Drainage Board minutes.)

“President Mosby: So, Bill, do we need a motion here? Bill Jeffers: I don't believe so. I think we're just acting as a

listening post or sounding board at this time, unless you have some direction. In other words, you as County Commissioners can direct Mike Wathen from the Engineer's office, or Bill Jeffers from the County Surveyor's office to continue to investigate and report to you, with permission from the landowners to enter on their property. Or you can make a motion at your pleasure. President Mosby: Do you have any suggestions? Okay. There is no motion at this time."

Don Gillies: And that was the conclusion. Since that time, phase three has had the land surveyed and shown that, without a doubt, the ditch is on the land owned by Bauer Homes. Therefore, my purpose this evening is that I am asking, or pleading, with the Vanderburgh County Drainage Board to use their office to have the ditch cleaned and put in a condition to prevent further build up or amplification of water velocity in or out of the ditch. We want to be able to mow our lawns, not shovel and sweep mud and debris. Thank you.

Commissioner Crouch: I guess, my question is, I guess, is that something legally the Drainage Board can do? Is that within our powers and authority? The action he's requesting?

President Musgrave: I don't know the answer to that.

Kathryn Daniel: That's something that our office can look into. I don't know off the top of my head, but we'll be happy to look into that.

Commissioner Nix: I guess, you had mentioned something about a detention pond—

Don Gillies: I'm sorry. I am very hard of hearing.

Commissioner Nix: You'd mentioned something about a detention pond and some drawings that Morley had generated.

Don Gillies: Yes, sir.

Commissioner Nix: What, where did those drawings go, or what was that, was that part of a plan when this was developed at the time?

Don Gillies: Yes, sir. That was the plan that was submitted back at that particular time. It was not followed through.

Commissioner Nix: So, in other words—

Don Gillies: I believe it was pointed out later to Mr. Jeffers why it wasn't followed through. I don't think there was any big deal. But, the thing was, is that the plan offered or showed that there was concern over the drainage that was coming down off of those particular slopes.

Commissioner Nix: Well, I guess, the concern that I have is if these were approved plans, which, were they, Bill? That you remember? This has been some time back, I'm sure that it may take some recollection here, but.

Bill Jeffers: Well, before we get into that, what exactly was the request again? The Drainage Board to do what?

Don Gillies: All I had asked the board, I would like the board to do is to make a motion to have Bauer Homes take the responsibility of cleaning the ditch, and keeping it in some type of order, that this doesn't happen again.

Bill Jeffers: So, you're asking for a motion to order Bauer Homes to clean the ditch and then perform long term maintenance?

Don Gillies: Yes, sir.

Bill Jeffers: Okay. If you'll look at the last page of the packet that I gave you, I was instructed by the County Drainage Board in 2004 to write this letter to Mr. Bauer. That record is surely part of the, or this letter is surely part of the record, so, you can refer to the minutes of the Drainage Board meeting to find it. Or you can read it at your leisure. But, it basically says that I was asked to send this letter conveying the board's requirement that Bauer Homes complete, or cause to be completed the grating and drainage plan for Oak Meadow Condominiums. Now, Mr. Nix's question is, this grating and drainage plan for Oak Meadow Condominiums, what was the action taken on it by the Drainage Board. To my knowledge, the Drainage Board never acted on that plan originally, because in the spring of 1994 when that plan was submitted to Area Plan Commission, under the review procedures that existed in 1994, condominiums and apartments were reviewed as site plans and subdivision plans if they established over, I think, six or eight units. But, the County Surveyor was not part of the review process for these plans. To my knowledge these plans, which I have just a little portion of them in your packet, above public comment here. You'll see the detention basin that Mr. Gillies is referring to. It says lake, that's the pond he's talking about.

Commissioner Nix: Where is that in relationship—

Bill Jeffers: Those plans are in Area Plan Commission's file. They are filed under 11700 Oak Meadow, under an address. They are in the Area Plan Commission's file under 11700 Oak Meadow. You'll see that they do not carry the County Surveyor's signature as having reviewed them. What you'll see on there, the ditch that Mr. Gillies is referring to I have highlighted in pink, it flows past that lake, that proposed lake and doesn't enter that lake. But, what that lake does is intercept a lot of the storm water drainage that comes down the hills off the condominium units before it arrives at that ditch. Mr. Gillies property I've highlighted in yellow. It shows you that he is downhill, as he has pointed out, of all this new development. Now, subsequently to sending Mr. Bauer this letter expressing that the Drainage Board in 2004 wanted him to finish this plan and clean that ditch out, Mr. Bauer informed me that he no longer, or Bauer Homes no longer owns that condominium lot. That it is now under the ownership and responsibility of the condominium association for that lot. So, that's where the communication or the desire of the board kind of broke down. In other words, at this point in time, according to Mr. Bauer, he has transferred all responsibility, as you pointed out, back in 2002 he did clean the ditch out. Subsequent to cleaning the ditch out in 2002, he transferred all ownership and responsibility for the long term maintenance of that ditch to the condominium association on his side of the line, which is a different condominium association that yours, or Mr. Gillies' here. Mr. Bauer also told me that the reason they didn't put that pond in is that someone made the decision that the property owner, or property



owners within the condominium area would prefer that that area remain as a meadow, or possibly a flower garden, something like that.

Commissioner Nix: Do you know, was that ever documented? I understand your department didn't have anything to do with this, but was that documented with someone or somebody?

Bill Jeffers: Not to my knowledge, Mr. Nix.

Commissioner Nix: So, they just took it on their own not to put this in?

Bill Jeffers: That's my understanding, yes.

Don Gillies: Can I comment? I am also the treasurer for the Oak Meadow Homeowners Association, which is the master group over this. The account is being paid on the Bauer Homes checks still. Now, what he has done is allowed one of the people who live within the organization, appointed her a treasurer, and she signed them, but they are still Bauer Homes checks. So, I'm not quite sure that that's totally accurate, that he is out of it. According to the Assessor's office, he still owns it.

President Musgrave: I'm looking at the Assessor's website right now, and I really can't tell where that is. Could you come here please and show me.

Madelyn Grayson: May we make a tape change first?

President Musgrave: Yes, while he comes forward.

**(Tape change)**

President Musgrave: Hang on, she'll get mad. Oh, wait.

Bill Jeffers: I've never seen you mad.

Don Gillies: This is our phase right here.

President Musgrave: Okay.

Don Gillies: He's back up in here.

President Musgrave: Well, the Assessor is showing this entire area being owned by the Oak Meadow Lodge LLC.

Don Gillies: The Oak Meadow Lodge only owns the lodge that is right up near the golf course.

President Musgrave: Okay, so, the Assessor's records are not reflecting that.

Bill Jeffers: Well, it's been my experience that these LLC's have sometimes complicated inter—

President Musgrave: Yeah, they do.

Commissioner Crouch: Is it possible for County Attorney, Ted Ziemer, who's not, he's on vacation, perhaps if he could sit down with you and Mr. Jeffers and see if

there's any legal recourse that this board has. That's really what, you know, we want to do what we can provided that is, you know, something we can do within our legal right. I think we could, you know, that's what we need to know.

Commissioner Nix: What is where the lake is now?

Don Gillies: I'm sorry, sir?

Commissioner Nix: The lake, where they show this lake here, what's there now?

Don Gillies: It's like a flower garden.

Commissioner Nix: Okay, it hasn't been occupied or anything?

Don Gillies: No, sir.

President Musgrave: Mr. Ziemer will be back in two weeks, I think?

Commissioner Crouch: April 4<sup>th</sup>.

President Musgrave: April 4<sup>th</sup>, would a meeting with him during that week perhaps be timely enough? Then we can consider you in the April meeting?

Don Gillies: Sure, I'll come to all your meetings. I mean, I've really just got to get this fixed. This is a mess. As I say, I personally have spent a lot of money. Our condominium phase has spent a lot of money. It's going nowhere. I've got photos I can show you that we took just recently of the ditch being filled to the top. There is no drain at the end of the ditch like there was supposed to be. They said there was. I've got all kinds of photos to show all that to anybody who would like to sit and see them.

Commissioner Crouch: Could, Ms. Daniels, could you coordinate, or let Mr. Ziemer know, and maybe get a meeting set up with Mr. Gillies and Mr. Jeffers when he returns to see legally what we need to do? And what we can do?

Don Gillies: Yeah.

President Musgrave: I'll tentatively put you on my notes for the April 26<sup>th</sup> Drainage Board meeting. Mr. Jeffers, if you could tentatively write that down as pending.

Bill Jeffers: Yes, ma'am. I'll add Mr. Gillies to the April 26<sup>th</sup> Drainage Board meeting. You're on the agenda, sir.

President Musgrave: Thank you.

Don Gillies: Thank you very much. I appreciate it.

<b>Ditch Maintenance Claims</b>
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President Musgrave: Well, it looks like we are ready to read bids into the record.

Bill Jeffers: Do you want to, excuse me, pardon me for interrupting, but would you like to just refer to these claims? They are all in order, and we need to pay those.

Commissioner Crouch: I'll make a motion to sign claims.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

<b>Reading of Bids for Annual Maintenance of Regulated Drains</b>
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President Musgrave: Do we need to read the individual bids into the record? Or just submit them for the record?

Bill Jeffers: In past years the attorney's preferred to read them into the record individually. However, I'm not sure if that's a legal requirement.

Commissioner Crouch: Are we required to?

Kathryn Daniel: I don't know off the top of my head.

Bill Jeffers: The notice says read aloud.

President Musgrave: Are you here to listen to them, or would you just be satisfied to come up and review the list as created by our attorney?

Unidentified: I would rather look at the list.

President Musgrave: He would rather look at the list. So, would you like to say anything to submit this?

Kathryn Daniel: We've opened each of the bids and recorded them as they were submitted. So, the list should be complete, and it's available for review.

President Musgrave: Alright. Do I hear a motion to accept the list into the record?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

Bill Jeffers: I do have a map of all your legal drains, if the Commissioners aren't—

President Musgrave: Wait, one more thing. Do I hear a motion to take these bids under advisement?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Now, is there other business, Mr. Jeffers?

Bill Jeffers: I'm sorry for interrupting you, I just happened to have a map here in case the new Drainage Board members would like to find the location of each ditch.

President Musgrave: Oh, I'm so excited.

Bill Jeffers: Yes, it is an exciting adventure there. If you would like to take a ride out and look at ditches anytime, we do have some relatively capable vehicles to get you there and back.

Commissioner Crouch: I would like to look at the ditches.

Madelyn Grayson: Only if you take your little red pointer with you.

Bill Jeffers: Right. We've already moved to have a meeting in two weeks to consider those ditches. So, the County Surveyor has no other business to come before you.

President Musgrave: Hearing no other business, we have a meeting to, we will not adjourn this meeting, we will recess this meeting for two weeks, and we will also have another meeting in April to consider some of the business brought up at this meeting. So, is there a motion to recess?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: We stand recessed.

**(The meeting was recessed at 4:50 p.m.)**

**VANDERBURGH COUNTY DRAINAGE BOARD  
APRIL 5, 2005**

The Vanderburgh County Drainage Board meeting recessed on March 22, 2005 was reconvened on April 5, 2005 at 4:04 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

President Musgrave: We will now reconvene the April 5<sup>th</sup> continuation of the March 22, 2005 meeting, which was in recess, bringing it back to order.

**Award Bids for 2005 Annual Maintenance of Regulated Drains**

President Musgrave: We have several items of business today; to award the contracts to successful bidders for proposals opened on March 22<sup>nd</sup> for annual maintenance of regulated drains. I see that we have a document here, provided by the Surveyor. Do you have any comments to make about this, sir?

Bill Jeffers: Yes, President Musgrave. The document you have in front of you is a spreadsheet showing all the ditches, along with a category of work, a description of the work that's going to be performed, the linear feet of each ditch, and then the bids. In column A, bidder A is the bidder who submitted the lowest bid for the work specified. Column B, and subsequent columns would be the other bidders, along with their bids. The County Surveyor recommends that you approve all contracts as shown, bidder A, and the "A" amount per lineal foot, the "A" total. The "A" total is the total amount we would pay them for the contract over the course of their work in the year 2005.

President Musgrave: I noticed that we have no bid on a couple of the ditches. What would be done about those?

Bill Jeffers: We received no bid on Kneer Ditch, Maasberg Ditch, and Wallenmeyer Ditch. We will, we have a document prepared in the hands of the County Auditor's representative here for your signature if you would authorize the readvertisement of those three ditches.

Commissioner Nix: Is there a reason why they didn't bid? There's something peculiar about—

Bill Jeffers: Generally, Mr. Maasberg, Eldon Maasberg turns in a bid on those three ditches. Over the past several years, maybe eight years, no one has bid against him. We did have his last year's bid price on here, but I removed it, because his bid came in a week late, and the document says all bids received after the signed date will be returned unopened. So, we're going to readvertise. We feel the most prudent course would be to readvertise those—

President Musgrave: Okay.

Bill Jeffers: —and seek new bids.

Commissioner Nix: I make a motion we approve all the low bidders in bid column A.

Commissioner Crouch: Second.

President Musgrave: Any discussion? Call for the vote. All those in favor?

All Commissioners: Aye.

President Musgrave: Opposed? That carries.

**Permission to Readvertise Notice to Bidders:  
Kneer, Maasberg & Wallenmeyer Ditches**

President Musgrave: Is there a motion to readvertise the remaining?

Commissioner Nix: I make a motion we readvertise.

Commissioner Crouch: Second.

President Musgrave: Any discussion? All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

Ted C. Ziemer, Jr.: Madam President, just, and I've talked to Madelyn about this, but on the readvertisement we want to be sure and narrow the description of what they're bidding on to these particular ditches, so that these other bidders don't come in and try to, I mean, rebid again. We don't care if they did, but we don't expect them, and we don't want them to have to bid again over things they've already bid on.

Bill Jeffers: That's a very good point. On the notice to bidders that we have prepared for your signature at this time, it says;

"Proposals for the maintenance of Kneer Ditch, Maasberg Ditch, and Wallenmeyer Ditch, with all work to comport with the 2005 general specifications for maintenance."

President Musgrave: Alright.

Bill Jeffers: Then, etcetera, the way the other one read, except the date has been changed to Tuesday, April 26, 2004, which is your next scheduled meeting. It should say 2005.

President Musgrave: Okay, with that one change then it will go out.

<b>Heritage Park, Phase II: Final Plan</b>
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President Musgrave: We move now to the continued drainage plans, Heritage Park, Phase II, final plan. It is listed as having no recommendation.

Bill Jeffers: We are awaiting revisions, and the Surveyor recommends that you table that one, and just put it aside until they resubmit at a later date.

Commissioner Crouch: Motion to table.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Metro Village: Modified Final Plan</b>
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President Musgrave: Metro Village, modified final plan.

Bill Jeffers: This is Metro Village, in case one of the Commissioners would care to view it, in this booklet. It has been reviewed by the County Surveyor. The engineer who drew the plan is Matt Wallace, who's standing at the podium in front of you, from Morley and Associates. This is a final plan, it has received approval of it's erosion and pollution control plan. All other things being in order, the County Surveyor recommends approval of Metro Village modified final drainage plan.

President Musgrave: Do you have any comments to make?

Matt Wallace: I'm just here to answer questions, if you have any.

President Musgrave: Are there any questions? I see none. Is there a motion?

Commissioner Crouch: I'll move, oh, go ahead.

Commissioner Nix: I move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

<b>Q-Comm Realty: Final Plan</b>
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President Musgrave: We move now to Q-Comm Realty, final plan, with a positive recommendation of plan B.

Bill Jeffers: That plan is on Commissioner Crouch's desk at this time. If anyone else would like to look at it, it's available for your viewing. It is a final drainage plan for the parcel known as Heritage, excuse me, it's Q-Comm Realty, which is the new site for Cinergy Communications. It's the large, rectangular parcel at the very right hand side of this orthographic photograph up there. The plan stands alone. It's not dependent upon any other drainage facilities within that future development. It stands alone as a parcel. It all drains through detention at the north end, and in to Lynch Road right-of-way. It was designed by Andy Easley Engineering. Justin Shofstall is here to represent the plan. He is the designer. It works in conformance with the Vanderburgh County drainage code. I would like to emphasize that the borrow pit along the south end of this property just happens to be a borrow pit that pre-existed this plan. It's there, it's shown on the plan, but it's not part of the drainage plan. Some incidental surface water sheet flows into that borrow pit, but it does not act as a detention basin at this time. As the plans for Heritage Park develops that may change, but at this time the plan in front of you stands alone and drains into Lynch Road right-of-way, in accordance with our code. The County Surveyor recommends approval of the plan. Mr. Shofstall is here in case you have any other questions of him.

President Musgrave: Are there any questions for Mr. Shofstall? Is there a motion?

Commissioner Crouch: I move approval of Q-Comm Realty, final plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you, sir.

<b>Don Gillies/Oak Meadow Condominium Drainage Issue</b>
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President Musgrave: We move now to the Don Gillies/Oak Meadow Condominium drainage issue. I see the recommendation is to continue research and findings until our April 26<sup>th</sup> meeting. Are there any further comments?

Bill Jeffers: Ms. Musgrave, I've prepared a very brief report. It's two pages long, it's stapled together, what I laid on your desk earlier. It shows the addresses that Area Plan Commission assigned for the ten individual dwellings that are situated on the lot, which I found today is called Oak Meadow, Phase II on Area Plan's maps.

President Musgrave: Okay.

Bill Jeffers: The addresses are somewhat different, and they represent a correction from the previous information that I had gave you two weeks ago. Because APC's staff told me today that the developer came in and changed the layout of this development after APC had reviewed the site plans, and issued a permit. Mr. Don Gillies is here today, because we told him that he would be on the agenda. He provided the information at the bottom portion, along with some more vital information, but I included this information in this little chart.

President Musgrave: That represents the owners of the addresses?

Bill Jeffers: The owners that Mr. Gillies believes owns those properties that correspond to the addresses he's given. I would like to point out that 1530 and 1540 are outside of Oak Meadow, Phase II according to Area Plan Commission's drawings. That Mr. Gillies' chart does not include 1600 and 1606. The second page, the County Assessor's office helped me out quite a bit today. We got a little deeper into that information. 1530 and 1540, again, are assumed to be outside of the parcel. 1600 and 1606 have no ProVal data, and turns out that those two were never built. Those two dwellings were never built. The rest of the addresses have out to the side of them the owner as given on the Assessor's tax data.

President Musgrave: I see that that also differs from the list that Mr. Gillies, and I'm sorry I mispronounced your name earlier. That also differs.

Bill Jeffers: It differs substantially in that 1634 appears now to be owned by Russell and Susan Woosley.

Don Gillies: Woolsey.

Bill Jeffers: Is that correct?

Don Gillies: Woolsey.



Bill Jeffers: Woolsey? I might have the "s" and the "l" transposed. That previously appeared to have been owned by Alfred Bauer, Jr. It has now been transferred, according to the Assessor's data to Russell and Susan Woolsey. Everything else appears about the same. The other issue is that I have checked with the Recorder's office, and there is no condominium association for Oak Meadow, Phase II. There is no condominium association recorded, this is still preliminary, but, I couldn't find it in the Recorder's office, for anyone known as Club Condominiums, or Club Condominiums, Phase II, or Country Club Condominiums, or Country Condominiums, Phase II. We searched all of those names, and could not find any recorded document establishing that association. Not to say it's not established by some other method. Mr. Gillies also, after receiving this information that I forwarded to Mr. Gillies, along with, by e-mail to each Commissioner, and to Mr. Ziemer, Mr. Gillies responded with this e-mail, which lends some more light to the situation. Basically saying that a lady who is treasurer for the Club Condominiums, Phase II states that they have not signed any ownership documents for Bauer Homes. And, that Mr. Gillies believes that Bauer Homes has not legally divested itself of the responsibility for Club Condominiums, Phase II. However, having said all that, the County Surveyor still recommends continued research and findings before the board makes a determination. Especially with regard to the board's authority to order the completion of site improvement plan that was apparently permitted solely by APC, or to order maintenance or corrective work to a ditch subject to this complaint until we determine that you have that authority. I have not had the opportunity, since I was out of town most of last week, as was Mr. Ziemer, to discuss this with Mr. Ziemer.

Commissioner Crouch: Has APC, have they been apprised, or has this information been shared with them? Because they may have some authority—

Bill Jeffers: Not to the extent that, you know, not to that extent.

Don Gillies: Jim, may I have something, excuse me, I think I might be able to shed some more light on it too. I was down in the Assessor's office, and the first thing I had to do was find myself. They didn't even have me listed out there. But, I talked with a Carolyn Garrison?

Bill Jeffers: Carolyn, yes.

Don Gillies: It appears as though the Bauer Homes built the condominiums, which are known as Club Condo, Phase I, and Club Condo, Phase II. Club Condo, Phase I has about, I think it's about nine or ten residents, as does Club Condo, Phase II, okay? When he, when Bauer Homes started building them, he built them in phases. So, Club Condo, Phase II has a phase one, a phase two, a phase three, and a phase four to it. So, I mean, it really gets convoluted, I'll tell you. But, the thing is, is that I believe the we have found a declaration for phase, for Club Condo, Phase I.

President Musgrave: Okay.

Don Gillies: I talked to the presidents in both phases, and Club Condo, Phase I told us that they had to sign a document when they accepted the condominium association. They're going to supply me with that document. I asked Club Condo, Phase II people if they did likewise. They said no, we have not signed anything yet. So, as far as I feel, and you can tell me, we're still searching for two items. One is,

who owns it? And the second thing is, is there sufficient authority to have it cleaned up and do whatever? I'll work with whoever we have to.

Ted C. Ziemer, Jr.: Mr. Gillies, it's Gillies, isn't it?

Don Gillies: Gillies.

Ted C. Ziemer, Jr.: Can you tell me where you are in this?

Don Gillies: Yes, sir. Do you have a map there or a drawing?

Ted C. Ziemer, Jr.: No, I don't have a map, but I just have this list of properties.

Don Gillies: Here, I have something that Jim would be very, very proud of.

Ted C. Ziemer, Jr.: None of these (Inaudible)?

President Musgrave: No, (Inaudible) affected by the drainage from these.

Bill Jeffers: Everything in this hatched area is what's affecting him, and his address is probably one of these (Inaudible) along here in this (Inaudible).

Commissioner Nix: (Inaudible) that was presented? I mean, are you aware of that?

Ted C. Ziemer, Jr.: Yeah, yeah. (Inaudible) the claim. Yeah, right.

Don Gillies: Okay.

Ted C. Ziemer, Jr.: I've got 11521, 531, 41, 51, 61--

Don Gillies: That's Phase, that is Oak Meadow Village, Phase II.

Ted C. Ziemer, Jr.: Okay. None of those are you?

Don Gillies: I am Oak Meadow Village, Phase III.

Ted C. Ziemer, Jr.: Okay. What's your number?

Madelyn Grayson: Ted, is your microphone on? I won't be able to pick Mr. Gillies' comments up.

Ted C. Ziemer, Jr.: Oh, it's not.

Madelyn Grayson: Yeah, if you can....you might need to speak closer to his microphone for me to be able to pick his comments up.

Don Gillies: Thank you.

President Musgrave: Alright, so now we have your address.

Ted C. Ziemer, Jr.: 11580, okay, and I see it here. Okay. Can I mark on this?

President Musgrave: Alright, well, I want to thank you for the mountain of work that both you and the Surveyor and apparently Carolyn in the Assessor's office has done. It certainly looks like there is more work to do between all of you and the attorney.

Don Gillies: That's correct.

President Musgrave: So, I look forward to seeing you back, perhaps with a recommendation, whether it's positive for what you want—

Don Gillies: We've been working on it since the early '90's.

Ted C. Ziemer, Jr.: Yeah, that's what I understand.

Don Gillies: A few more months is not going to hurt.

Ted C. Ziemer, Jr.: Well, we're not going to drag our feet, but, what we have to find out is what authority actually the drainage board has to enforce. If not the drainage board, who does? We want to look at that as well. Somebody does.

President Musgrave: Right.

Don Gillies: Good enough.

Commissioner Crouch: Mr. Ziemer, you'll talk to Joe Harrison, if you need to? The attorney for APC?

Ted C. Ziemer, Jr.: Certainly.

President Musgrave: Okay. Is there a motion to table this? Or, do we need one?

Commissioner Crouch: I'll make a motion that we table this to April 26<sup>th</sup>.

Commissioner Nix: Second.

Don Gillies: Thank you very much.

President Musgrave: All those in favor?

All Commissioners: Aye.

Commissioner Crouch: Motion to adjourn.

Commissioner Nix: Second.

President Musgrave: We are adjourned.

(The meeting was adjourned at 4:25 p.m.)

**Those in Attendance:**

Cheryl Musgrave

Bill Jeffers

Glen Meritt

Don Gillies

Others Unidentified

Bill Nix

Ted C. Ziemer, Jr

Matt Wallace

Kathryn Daniel

Members of Media

Suzanne Crouch

Madelyn Grayson

Lee McClellan

Jon Kipling

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
APRIL 26, 2005**

The Vanderburgh County Drainage Board met in session this 26<sup>th</sup> day of April, 2005 at 4:20 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the Vanderburgh County Drainage Board for April 26<sup>th</sup>.

**Approval of March 22, 2005 & April 5, 2005 Drainage Board Minutes**

President Musgrave: Do I hear a motion to approve the minutes of the previous meeting?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Creekside Meadows: Final Plan**

President Musgrave: We now move on to our drainage plans, starting with Creekside Meadows, final plan.

Bill Jeffers: Creekside Meadow is a large residential subdivision located north of Earle, Indiana on the east side of Petersburg Road. Hornby Lane and Fisher Lane bisect the development. It's represented here tonight by engineers from Morley and Associates. The final plan comports with the drainage ordinance, and the Vanderburgh County Surveyor recommends approval of the plan.

President Musgrave: Is the engineer here? Does any member of the public have any comments to make regarding this plan? Any of the Commissioners?

Commissioner Crouch: No questions. I'll make a motion to approve Creekside Meadows, final plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Old Orchard Subdivision: Final Plan**

President Musgrave: We move now to Old Orchard Subdivision, final plan.

Bill Jeffers: Old Orchard Subdivision is a small three lot residential subdivision located on Kuebler Road, very close to Big Cynthiana Road. It already has one house on the property. The property owner is dividing off two other lots, very large lots in order to build two additional homes. The final drainage plan for Old Orchard Subdivision comports with the drainage ordinance and the County Surveyor recommends approval of the plan.

President Musgrave: And the engineer is present? Is that Morley and Associates as well?

Bill Jeffers: Yes, that's Jon Kipling from Morley and Associates.

President Musgrave: Welcome, Jon. Does any member of the public have any comments regarding Old Orchard Subdivision? Sir, please come to the microphone and state your name.

Larry Toone: My name is Larry Toone. I live at the corner of Kuebler Road and Highway 65, known as the Big Cynthiana Highway. This property, the Old Orchard Hills Subdivision is north of my property. I'm on the south side, they're on the north. I have a problem with drainage there. There is a big culvert pipe that's been put in new recently by the county. I catch all the water from that side of the road. I own approximately four acres there, which that area affected is a horse pasture. I raise horses. What I am concerned about is when they build homes on the hill up there, and the water flows down there that I'm going to catch more water. My property has already dropped two, three, or maybe four feet in the last several years. This property also extends the ditch drainage, goes back behind two other homes, and then to the church's property. That is the only concern that I have, providing that they are just going to build two homes. I think it takes two and a half acres now for a septic system in the county, and to build two homes up there, if there is some way to revert the water where I don't have to catch all of it, cause, like I say, my pasture has dropped there on the corner. That's my only concern.

Commissioner Crouch: Can you point out where you are here?

Larry Toone: I am on the corner of 65 and Kuebler Road. (Inaudible) Fehrenbacher Cabinet Shop, and then (Inaudible) property joins mine, and right about (Inaudible) the ground slopes—

Madelyn Grayson: Sir, can you make your comments at the microphone?

Larry Toone: (Inaudible).

Commissioner Nix: Can you come back to the microphone please?

Larry Toone: The property slopes down from 65, Highway 65, down the Kuebler Road side, and the water, my property is located in the middle and there's a ditch there, and, like I say, the county just put in a new, larger culvert pipe.

Commissioner Nix: Sir?

Larry Toone: I catch the water.

Commissioner Nix: That pipe, was that put under 65?

Larry Toone: There is a new pipe put in at 65, they reverted it from my side of the corner of 65 and Kuebler Road. The state evidently done that on 65.

Commissioner Nix: But, there's another on Kuebler?

Larry Toone: There's another one on Kuebler Road, just been put in recently. It is in a low part of the section. It comes off the hill of this proposed subdivision. I catch all the water from that area down through my property. The erosion of my property, my pasture has dropped, like I say, approximately four foot in recent years. That would be my only concern for the building of the property.

Bill Jeffers: What is the ground cover on the two lots...there's already a house on one of the three lots of this new subdivision.

Larry Toone: Yes.

Bill Jeffers: What's the ground cover on the other two lots like right now? Is it wooded, pastured?

Larry Toone: It's a pastured ground, and there is some woods along the ditch there.

Commissioner Nix: That's what the state put in?

Larry Toone: Yeah.

Commissioner Nix: Okay.

Bill Jeffers: Generally speaking, our subdivision code requires storm water detention if they're going to place 10,000 square feet of new, hard surface. This subdivision here is not going to establish 10,000 square feet of new, hard surface because it only is going to establish two homes, possibly a swimming pool, possibly a couple of gravel driveways. So, by our ordinance they actually do not have to have storm water detention, because of the very small amount of new, hard surface they would establish. We believe that that new, hard surface will be offset by the homeowners converting that pasture into more of a lawn, using lawn grasses, and mowing it frequently will establish a tighter turf and slow the water down and absorb more of the water. So, we feel like there will be less water coming off per second after development of the two homes than there is coming off that rough pasture at this time. We don't anticipate that they will do anything that would generate more water that would come down across your property.

Larry Toone: Well, my concern, this property is mowed, I've already mowed that pasture four times this year. It's fertilized, reseeded every year. It's properly taken care of.

Bill Jeffers: Your property?

Larry Toone: That's right.

Bill Jeffers: Yes, sir.

Larry Toone: And, the water that comes in there lays in this low spot between the sloping Kuebler Road, and drains through the middle down into my property. Like you say, the property, I can understand the less concrete they put up there, or blacktop, whatever, would catch more water the more concrete they put up there. But, my concern is, you know, if the water doesn't catch, I know it's naturally, I've been there 36 years, and I've had this problem. I've done about everything I could do, but as long as the county drain pipe is put from one side of the road to the other, and I understand that the water, rain water and drainage water has to go somewhere.

Bill Jeffers: Right, we can't change the natural pattern of the water. In other words we couldn't move the pipe so that it went on to someone else's property, because it's historically drained on to you all this time.

Larry Toone: Well, my concern is about there being more water.

Bill Jeffers: I understand.

Larry Toone: You know, I don't know how they're going to build this. I haven't seen the plans for it. I don't know how much concrete or blacktop they're going to put down up there. All I saw was that it was a subdivision and two homes.

Bill Jeffers: Well, typically, on this one it will be two homes, and, typically, they would be about 2,000 square feet each, plus whatever sidewalk or patio that might be included. I imagine that on this type of subdivision they could have a detached garage might be another 500 square feet. So, when you add all that together they are well under the 10,000 square feet that they're allowed before they're required to have a detention basin.

Commissioner Nix: Sir, did the improvements the state did, and the recent improvements the county did, has that helped the situation at all?

Larry Toone: No, it hasn't. In fact, the improvement that the state done, since it's been done there probably hasn't been a gallon of water run through the new pipe. As far as I'm concerned it was a waste of the state's money. There was a drain there which did come out on my corner, under Kuebler Road. It was from Kuebler Road, over to the other side of my property, which had very little drainage system to it. So, they blocked it, covered it up, put in this new pipe. Where I went to school and what I learned, water does not run up hill. It runs downhill. But there's no water that's even come through this state pipe there. Why they done it I don't know. Then the county come out and put a bigger one in on Kuebler Road and rocked the bank, which I have kept, tried to maintain, and hold back what water I could. You know, I know it's got to go somewhere. Water, like I say, runs downhill, my property slopes too, but I have kept it mowed, and fertilized for my horses. You know, it's on a highway, I try to maintain it and take care of it.

Commissioner Crouch: Would it be possible for the board to allow this gentleman to meet with the developer just briefly, perhaps in the hallway, kind of look at the plans and get some comfort level, and then we can come back to that later in the agenda?

Commissioner Musgrave: Would you be agreeable to stepping aside with him and going over it and coming back in a little bit?



Larry Toone: Yes, I'll be, you know, I'm running on a time basis. I've got mares at home and young colts that need to be properly taken care of at the proper time. You know, if it's not going to require too much time, I would be more than happy to do that.

Commissioner Musgrave: How about ten, fifteen minutes, I think you should probably be able to cover it.

Larry Toone: That should be fine. That will be fine.

Commissioner Musgrave: Alright we'll call you back up.

<b>Dawnridge Subdivision: Final Plan</b>
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Commissioner Musgrave: In that case we'll move now to Dawnridge Subdivision, final plan.

Bill Jeffers: Dawnridge Subdivision is located just about 300, 400 feet east of Green River Road, on the north side of Millersburg Road. I believe it has 80, proposes to have 80 new residential lots. It's represented here tonight also by Morley and Associates.

Ron London: Hey, Bill? Dawnridge is on Boehne Camp and Hogue.

Bill Jeffers: Oh, wrong one. Dawnridge, it's on Boehne Camp and Hogue Road.

Commissioner Nix: That's the wrong end of the county, Bill.

Bill Jeffers: Yeah, wrong end of the county. This one is located across the street from Perry Heights Middle School, is that right? On the south side of Hogue Road about a quarter mile north of Lloyd Expressway. Very hilly ground. It's been put on hold for about a year. It's transferred to a different developer. It's now ready for a final drainage plan approval. The Surveyor has actually reviewed this plan, and it comports with the county drainage code, and the County Surveyor recommends approval of Dawnridge Subdivision's final drainage plan.

Commissioner Musgrave: Is there anyone here to speak to Dawnridge? Sir? State your name and address.

Ron London: My name is Ron London with Morley and Associates. I'm just the engineer on the project.

Commissioner Musgrave: Okay. No members of the public? No questions? Do the Commissioners have any questions?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. May I just say that as a mother of two kids who went through Perry Heights, I had always wanted that to be a parking lot, but, oh well.

**Brad & Vicky Pitts Equine Center: Final Plan**

President Musgrave: We move now to Brad and Vicky Pitts Equine Center, final plan.

Bill Jeffers: This is simply a piece of agricultural ground located on Hedden Road about midway between Millersburg Road and Kansas Road. It's on the west side of the road. The applicants desire to build a horse barn, a riding rink to give riding lessons, etcetera. Because the horse barn and the parking lot together will be greater than 10,000 square feet of new, hard surface they are required to come through the Drainage Board for approval. All the water from the barn and the rooftop and the new parking surface will be taken back to an existing farm pond, routed through the farm pond and detention before it's released into Furlich Creek. Very simple plan. Mr. Nix is looking at it at this time. It's also got an erosion control plan attached to it that's been approved by SWCD. The County Surveyor recommends approval of this final drainage plan for Brad and Vicky Pitts Equine Center on Hedden Road.

President Musgrave: Is there anyone here to speak to this matter?

Bill Jeffers: Mr. Justin Shofstall from Easley Engineering drew the plan and is here to represent it.

President Musgrave: Any questions for Mr. Shofstall? Is there a motion?

Commissioner Crouch: (Inaudible).

President Musgrave: I'm sorry. Is anyone from the public here?

Commissioner Crouch: Motion to approve Brad and Vicky Pitts Equine Center.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you.

**Blue Heron Estates: Final Plan**

President Musgrave: We move now to Blue Heron Estates, final plan.

Bill Jeffers: Blue Heron Estates is the subdivision of 80 lots that's on Millersburg Road. It's on the north side of Millersburg Road about 300 feet east of Green River Road. The plan is represented by Morley and Associates. Mr. Jim Morley, Jr. is here to speak to the plan, if need be. Like I said, it's got 80 lots, it's got two detention basins, one discharges into, will discharge into Millersburg Road, they intend to improve the road side ditch to receive that water. It will be carried down

under Green River Road and in to Furlich Creek. The north end of the subdivision is serviced by another detention basin which discharges into a farm drain, and then is received by Blue Grass Creek. The plan comports with the county's drainage ordinance, and the County Surveyor recommends approval of the final drainage plan for Blue Heron Estates.

President Musgrave: Is there anyone here to speak to Blue Heron Estates from the public? Does the engineer have any comments?

Jim Morley, Jr.: Just to answer any questions that you might have.

President Musgrave: Do the Commissioners have any questions?

Commissioner Crouch: Motion to approve.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

Jim Morley, Jr.: Thank you.

<b>Bennett Point Condos: Final Plan</b>
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President Musgrave: We move now to Bennett Point Condos, final plan.

Bill Jeffers: Bennett Point Condos is located on Burkhardt Road at the end of Colonial Gardens Drive, oh, I guess, about a little less than a thousand feet north of Old Boonville Highway. Mr. Johnson proposes to build condominium homes. The plan was drawn by Justin Shofstall of Easley Engineering. Both Mr. Johnson and Mr. Shofstall are available to answer questions from the board. The condominium plan comports with the drainage ordinance. They have obtained an off-site easement to carry this water to Crawford Brandeis Ditch. The County Surveyor recommends approval of the final drainage plan for Bennett Point Condominiums.

President Musgrave: Is there anyone here to speak to Bennett Point? I see a gentleman in the back. Please come forward and state your name and address and your concern.

Mike Miodus: Hello, my name is Mike Miodus. I live at 3012 Colonial Garden Road. I spoke before to the County Commissioners about this, and I know that they do have the easement now to get drainage down to Brandeis Crawford, which is a good thing. We need that. My only concern is the same thing that I brought up before at a County Commissioner meeting when we first did the Area Plan on that, is just the guarantee that we're going to actually have drainage there in the future. Case in point, from Country Trace there it would be on your, do you all still have that little red pointer.

Brenda Jeffers: Yes. I've got one. Sure.

Mike Miodus: Because I'll walk up there and you all can't hear me. The bottom part here where they wanted to have, and I went ahead and brought the original draft that they had for Country Trace that I kept, as far as their sewage and drainage easement at that time. That's not been done, so, that's been simply filled in with, you know, me and Mr. Jeffers talked about this last time, you know, with fences and that sort of stuff. So, none of that's being drained today, you know, off that edge. If the same thing happens with Bennett Point where all that area, and the area that I'm talking about is all this area right in here. You know, that's not been drained today from Country Trace, and, well, you know, just to go ahead and (Inaudible) Point they did the same thing. (expletive deleted) I'm sorry. There we go, and the same thing along Country, Colonial Gardens right in there, those were all supposed to have swales on them, 24 to 25 foot swales, as far as to help drain that area off. I don't see anything on the Bennett Point, (Inaudible) the drainage of that nature today, and, I know, I guess, we can't go back 20 years and make the people before do the drainage. I just want to be sure that something is going to be in place that when you all okay this, that there is some type of adequate drainage like we were promised 20 years ago to that area. If somebody decides to build a fence on there, and somebody else says, no, you can't do that, or if they want to have access out to Colonial Gardens, you know, that we have some type of legal recourse, rather than having me walk across the street and say, no, you're not supposed to do that. Because I've had a couple of them other neighbors get a little mad at me for saying that in the past to them, but I know we have a different Surveyor now than we had back in those days, you know, so, that changes things somewhat too. But, that's my only concern is that I want to be sure that something, you know, is said. Just like our privacy fence that we can have along this area here, you know, because I know they have to build that area up. I think you said at the last meeting five foot, something like that to get above the flood level or whatever for those condos. You know, all that water's got to go somewhere. It will go into Brandeis Crawford, and we don't have a problem with that, the problem is when the creek backs up. Miller Trucking, they elevated their area quite a bit along Brandeis Crawford. Hicks when he put in his auto repair place there, you know, he elevated his up. The companies down, you know, or upstream from there have done the same thing. My land is still the same elevation it was when I started, which means that when the creek backs up I will get more water.

President Musgrave: Let me ask the engineer and the Surveyor to respond to your concerns.

Mike Miodus: I'm just, you know what I'm saying, just something in there that—

President Musgrave: Let's hear what they have to say.

Bill Jeffers: The older homes along Colonial Gardens Road, one of which Mike owns, were built before 1979 when FEMA and the federal government required from 1979 forward that homes be built above the flood plain elevation. Those homes were built prior to that and they are lower, and they are below flood plain elevation. The subdivision that Mike's talking about is Country Trace, it was built, I believe, in 1986 or so, 1988, something like that. It was built under the previous drainage ordinance. It is built above flood plain elevation, but the area of land that Mike's talking about that doesn't drain well along the north property line of that subdivision is adjacent to a farm field that Mr. Johnson proposes to build condominiums on. They did have a slight swale constructed along that northern perimeter, but the farmer continued to farm, and as he plowed his field he threw dirt towards the subdivision and eventually blocked off part of the drainage in that swale. Then the homeowners put fences

along there and blocked off some of the drainage. Basically, what Mr. Johnson proposes to do is to build his condominiums in conformance with the new drainage code and drain his property properly. It has to be elevated above flood plain, and then drain it properly according to our new code, through the drainage easement that he acquired that will take it to Crawford Brandeis Ditch. He can't cure all the drainage problems of the surrounding neighborhood. He can only address the property that he's developing, and any drainage that happens to cross his line, and I think Justin Shofstall has addressed that, any drainage that comes on to Mr. Johnson's property from the adjacent properties will be picked up and taken through his system. His system itself is self-contained, so that any water he generates within the condominium project that's collected, routed through the detention basin, and then discharged through a new pipe out to Crawford Brandeis Ditch. Unfortunately, there are drainage problems in the neighborhood that will remain, because Mr. Johnson is neither capable of or responsible for addressing those. His plan does adequately address the problems that exist on or immediately adjacent to his property.

Commissioner Musgrave: Alright.

Bill Jeffers: So, that's why the recommendation to the board is for approval is because he has met the requirements of the code, and I'm sure if you were to talk to him about anything that could be directed in to his drainage system through efforts of others, you know, if it arrived at his drainage system and his drainage system was capable of handling it, I'm sure he would be amenable to a discussion of whether or not it could be handled by his drainage system.

Mike Miodus: Yeah, I understand all that, and I agree with that part of it. The fact is, as far as the drains that he's going to put down on the land between mine and Mr. Osborne's property there, he's actually going to put in some surface drains so it will actually help our side of the fence. What I'm saying is that I just want it on record that 20 years from now when I come back to you all, of course, it will be different people up there, that I won't go through the same argument again. Well, yes, just like they said then, we have these swales, all that drainage is going to be there. Well, in those 20 years they've filled in the swales, the pipe has collapsed, that pond which is supposed to be a retention pond is now a nice little grassy thing and somebody's got a fence around and trees planted in it, and none of it is helping the drainage for us that are still there. That's one of the, you know, just like I did, I've got all the, you know, what I did 20 years ago, or actually 1992, I guess, when they approved that or whenever that was.

Bill Jeffers: If in fact there are—

Mike Miodus: Do you know what I'm saying, Bill?

Bill Jeffers: —if in fact anyone has done anything since 1998, if anyone has done anything that adversely affects you by blocking your drainage, you can come to this board with a petition and ask that that obstruction be removed. If it occurred since 1998. There's a new law on the books.

Mike Miodus: Yeah, I saw that from your website.

Bill Jeffers: Right, that allows you to go through a petitioning process to ask this board to order the removal of an obstruction that was intentionally placed in a watercourse.

Commissioner Musgrave: So, you don't need to wait 20 years. Just watch that like a hawk and come right on back down.

Mike Miodus: Well, you know what I'm saying though, I just want to have something down because, you know, not to be rude, but Andy Easley and those guys back, you know, back in 1992 by the way was when they approved the Country Trace part three, when we were talking back then—

Bill Jeffers: That was not done by Mr. Easley.

Mike Miodus: Yeah, but, you know—

Bill Jeffers: That was done by Sam Biggerstaff.

Mike Miodus: Yeah, but he was the Surveyor. He was where you're sitting now.

Bill Jeffers: No, Mr. Easley might have been County Engineer, but he did not recommend approval of that.

Mike Miodus: Yeah, but—

Bill Jeffers: The County Surveyor recommended approval of that plan—

Mike Miodus: —you were working, because you were his deputy then, right, Bill?

Bill Jeffers: No, I was Mr. Brenner's deputy, and we recommended approval of Country Trace that was drawn by Sam Biggerstaff.

Mike Miodus: Well, and Andy he was up there doing something with it, because I had to talk with his office.

Bill Jeffers: He may have been County Engineer at that time.

Mike Miodus: But, what I'm saying is—

Bill Jeffers: He approved the roads, yes.

Mike Miodus: Yeah, because he says that that's what all these, you know, swales and stuff back in those days was for. So, I just want it on the record that yes, I came up here and I talked, and it's been 20 years or whatever it is and I can do that. But, as far as this new plan that I saw, at least what I've seen of it, and what I've been told about the drainage and that, that looks actually, for us, is going to help us more than Country Trace did, so.

Bill Jeffers: We'll be happy to receive any of your comments over the next 20 years. I hope I live that long. I hope I'm still the County Surveyor, and we'll come out and we'll address those. If you'll be the neighborhood watchdog, I promise you, we'll address what you bring to us.

President Musgrave: Thank you, Mr. Miodus.

Mike Miodus: Thank you.

Commissioner Nix: I move approval of Bennett Point Condos, final plan.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Motion carries. Thank you.

<b>Mystic Creek Commercial: Preliminary Plan</b>
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President Musgrave: I see that they are still out in the hallway, so we will move to our last one, Mystic Creek Commercial.

Bill Jeffers: That's yours, Justin.

Justin Shofstall: (Inaudible).

Bill Jeffers: Mystic Creek Commercial is a preliminary plan, the approval of which will allow it to go forward to Area Plan Commission's May hearing. It's a commercial subdivision on Green River Road, a little bit north of Sugar Mill Creek, immediately south of the Timbers Apartments, somewhat across the street from the new Schnuck's plaza, but south of there. It's a pretty straight forward plan, the only unique thing about it might be that the five lots will have underground storage is proposed at this time. That's acceptable to our county standards. The plan meets all the requirements for a preliminary drainage plan. The County Surveyor recommends approval.

President Musgrave: Is there anyone here to speak to Mystic Creek Commercial? And the engineer is here.

Bill Jeffers: It's represented by Andy Easley and Justin, I mean, it's drawn by Mr. Easley's crew, and it's represented by Justin Shofstall.

President Musgrave: Do the Commissioners have any questions?

Commissioner Crouch: Being no member of the public here, I will move approval on preliminary plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: And the motion carries.

<b>Resume Old Orchard Subdivision: Final Plan</b>
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Bill Jeffers: Before we go back to Old Orchard, you could direct the County Surveyor to recommend approval of a preliminary plan, if they haven't resolved all their issues. It's on there as a final plan because it was presented as a final plan. It's never been presented before, it goes to Area Plan Commission, if you approve it it goes forward

to Area Plan Commission next month. It could come back for final approval if they haven't resolved all their issues.

President Musgrave: Okay.

Commissioner Crouch: So, Old Orchard Subdivision is a preliminary plan, not a final?

Bill Jeffers: Well, it's a final plan right now. It was submitted as a final plan, but we could change it to preliminary if you think it requires additional time.

President Musgrave: Well, gentlemen, how did you come out? And be sure and identify yourself for the record again.

Larry Toone: My name is Larry Toone, I live at the corner of Kuebler Road and Highway 65. I think we've pretty well satisfied the complaint. From what I've heard from him and, you know, if the builders and the contractors do the proper thing, I guess I'll catch what water's there. He doesn't think there will be anymore, much more water. Somebody's got to catch it, and I'm a fairly good guy to get along with, you know.

President Musgrave: Well, I'm glad you took the time then to talk with each other. Unless there are any other comments from the engineer, or any other member of the public, I'll ask the Commissioners if they have any questions?

Larry Toone: Thank you.

Commissioner Crouch: Thank you. No questions, and seeing no member from the public opposing, I will move approval of Old Orchard Subdivision final plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: And the motion carries. Thank you, sir.

<b>Receive 2005 Maintenance Contracts</b>
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President Musgrave: We move now to receive the 2005 maintenance contracts.

Bill Jeffers: We have not finalized all the contracts at this time. We have several that are ready, but I would prefer to bring them all at one time next month.

Commissioner Crouch: Motion to defer.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.



President Musgrave: The motion carries.

**Opening of Bids: Kneer, Maasberg and Wallenmeyer Ditches**

President Musgrave: Is there other business?

Bill Jeffers: We have some bids to open that were advertised as rebids. I believe your attorney has those ready to open.

Commissioner Crouch: Motion to approve opening of bids.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: We will now proceed to open the bids.

**Other Persons Wishing to Address the Board**

President Musgrave: Are there other persons wishing to address the board while we open the bids? There are no other persons in the audience besides staff members. So, we will quietly wait while Mr. Ziemer opens the bids.

Commissioner Crouch: With baited breath.

Commissioner Nix: While Mr. Ziemer is opening the bids, I have a question for Mr. Jeffers. Where is the best place to get information on base flood elevation for the county? Would that be from your office? Or from Mr. Stoll's office?

Bill Jeffers: That would be from, base flood elevation under our ordinances, the County Building Commissioner is the president of the Flood Plain Management Committee. Roger Lehman can provide you with those, and, generally, Steve Fuchs, his executive assistant handles all those issues.

Commissioner Nix: And that would include roadways also?

Bill Jeffers: Yes, sir. He can give you the base flood elevation for any point in the county.

Commissioner Nix: Thank you.

President Musgrave: Or you can go on line as well.

Bill Jeffers: Most of that's on line, but if you actually, the official base flood elevation, the actual official one, they need to know the exact point or the lot, or the place in the road that you want, so that they can give it to you in writing. Because FEMA requires that it be handled that way.

Commissioner Nix: Thank you.

Bill Jeffers: Then it requires a certified, or requires a licensed land surveyor to establish the flood protection grade for a piece of property.

Commissioner Nix: Thank you.

<p style="text-align: center;"><b>Reading of Bids into the Record: Kneer, Maasberg &amp; Wallenmeyer Ditches Annual Maintenance</b></p>
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Commissioner Musgrave: It appears we are ready for the bids.

Ted C. Ziemer, Jr.: The only bidder is Eldon Maasberg, M-a-a-s-b-e-r-g. His bid for the Wallenmeyer Ditch is \$1,253.25. His bid for the Maasberg Ditch is \$198.54. His bid for the Kneer Ditch is \$410.40.

President Musgrave: Given that we have a sole bidder, would this Commission be willing to undertake approval of these bids?

Commissioner Crouch: Motion to approve.

Commissioner Nix: Do we want to let Bill take them under advisement? Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Do we need to do a roll call vote? Or is that sufficient?

Commissioner Crouch: It's not an ordinance.

President Musgrave: Alright, then we have—

Commissioner Crouch: Motion to adjourn.

Commissioner Nix: Second.

President Musgrave: We are adjourned.

(The meeting was adjourned at 4:55 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Ted C. Ziemer, Jr.  
Larry Toone  
Mike Miodus  
Others Unidentified

Bill Nix  
Bill Jeffers  
Ron London  
Brenda Jeffers  
Members of Media

Suzanne Crouch  
Madelyn Grayson  
Justin Shofstall  
Jim Morley, Jr.

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
MAY 24, 2005**

The Vanderburgh County Drainage Board met in session this 24<sup>th</sup> day of May, 2005 at 4:41 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order Vanderburgh County Drainage Board meeting for May 24<sup>th</sup>.

**Approval of April 26, 2005 Drainage Board Minutes**

President Musgrave: Do I hear a motion to approve the minutes of the previous meeting?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: And the motion carries.

**Wynnfield Subdivision, Section Two: Final Plan**

President Musgrave: We have drainage plans, Wynnfield Subdivision, Section Two, final plan. Is there anyone here to speak to this? Does the Surveyor have any comments? I see no one in the audience prepared to speak to this.

Bill Jeffers: Mr. McClellan, did you want to make a request regarding Wynnfield, Section Two, final plan? This would be Mr. Lee McClellan from Morley and Associates, the design engineer for the project.

Lee McClellan: Yes, as Bill said, Lee McClellan with Morley and Associates. Right now many of the issues that involve the completion of the phase two, or section two of Wynnfield drainage plans involves some deficiencies in the downstream structures, swales and ditches, etcetera in section one, which lies downstream. So, in essence, section two drains down through section one. We had a meeting this afternoon with Mr. Railey and Mr. Atkinson, his attorney, and, basically, what Scott would like to do, and Jerry is supposed to be here, but evidently he's not, he was supposed to ask on behalf of Mr. Railey, since Mr. Jeffers has no problems with the sizing or the location of the underground storm drainage system, it all involves open swales, erosion control issues, if he could get approval to commence the installation of his underground storm sewer system. This would then allow him to move forward on his roads, which he did receive approval this night from this board, or the County Commissioner board, excuse me, not the Drainage Board, to commence with those roadway plans. This will give us time to assess the downstream deficiencies, because we are going to have to send a survey crew out in the field, collect as-built data, plot it up and analyze it as to what effect the upstream drainage has on the downstream system, and then address those concerns to Mr. Jeffers between now

and the next drainage board, which would be on, let's see, the fourth Tuesday of June.

President Musgrave: So, is your—

Bill Jeffers: Pardon me, so, in essence what Mr. McClellan is requesting on behalf of the developer, Scott Railey, and Mr. Atkinson was here earlier, but had to leave for another appointment and spoke with me in the hall, is your permission to go ahead and install the storm water pipes shown on the street plans that the County Commissioners approved earlier this afternoon, at the, you approved those on the recommendation of the County Engineer, Mr. Stoll. I have no problem with that, so long as the pipes that are installed in phase two of Wynnfield Subdivision are those pipes installed as designed and shown on the approved plans, and only those pipes that are shown on the approved plans.

President Musgrave: Do I hear a motion?

Commissioner Nix: Let me make sure I'm clear. You just want to make sure it's put in as per plans and specifications?

Bill Jeffers: That the plans and specifications that you approved on the recommendation of Mr. Stoll earlier this afternoon, those plans.

Commissioner Nix: Okay, is there a reason why they wouldn't be? I'm just curious.

Bill Jeffers: There may be some pipes outside of the street plans that Mr. Railey, or his contractor, might confuse with those you're granting approval for. There may be some pipes over here somewhere that's not shown on the street plans. I'm not talking about those pipes.

Commissioner Nix: Okay.

Bill Jeffers: I'm talking about the one's that are shown on the approved street plans only.

Commissioner Nix: I move we approve.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Motion carries. Thank you, sir.

Lee McClellan: Thank you.

Bill Jeffers: Then they will return one month from tonight for the final plan for the rest of the drainage project.

**Windham Hill Subdivision: Section Three, Final Plan**

President Musgrave: We move now to Windham Hill Subdivision, Section Three, final plan.

Bill Jeffers: Mr. McClellan is also the design engineer for Windham Hill Subdivision, Section Three, which is shown on the screen. It's west of Windham Hill, Section Two. It's across Green River Road from Wynnfield Subdivision that we just discussed. It's north of Green River Estates, which was developed in the 80's and 90's. The plan presented by Mr. McClellan, certified by him as the design engineer, comports with the drainage ordinance, and the County Surveyor recommends approval of that plan.

President Musgrave: Is there anyone here to speak to this? I see no one.

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Motion carries.

Lee McClellan: Thank you.

President Musgrave: Thank you.

**Heritage Park Subdivision: Section Two, Final Plan**

President Musgrave: We move to Heritage Park Subdivision, Section Two, final plan.

Bill Jeffers: This is for Bill. Heritage Park Subdivision will be coming up on the screen shortly, it's Section Two. It's located at Green River Road and Lynch Road. It's north of Schnuck's Plaza. It was rezoned at the last Area Plan, or the plat was considered at the last Area Plan Commission meeting. It contains a long, narrow borrow pit that was excavated by the developer to acquire fill for the building sites prior to any submittal of a plan, a drainage plan. It, the borrow was used for section one. The County Surveyor, nor the County Engineer, nor the Drainage Board any had opportunity to review or recommend or approve that borrow pit. However, it does exist. It's a large borrow pit, it fills with water, it will become a lake whether we approve the plan or not. It has unstable side slopes in it's current condition that are caused by a soil condition that was identified in this report by Hansen Testing, an engineering company who is a geo-technical engineering investigation firm. This report was compiled and certified by Kent Lautner, professional engineer, an agent for Hansen Testing, outlining, in detail, the soil conditions that affected the soil failure in the embankments of that borrow pit, and recommending specific procedures for stabilizing those embankments. Since everything else regarding the plan substantially comports with the drainage ordinance, and because the design engineer here before you tonight, Mr. Dave True, has taken great pains to show on the plans exactly how they intend to repair the embankments, establishing 4:1 side slopes above the pool elevation, and 5:1 side slopes below the pool elevation, with

soil that they're going to move into place and compact in accordance with AASHTO standards to stabilize this dirt. They're also establishing a ten foot wide safety ledge so that adjacent neighbors if they were to enjoy the facility and accidentally wade into the water would have a safety ledge two feet below the surface. We believe that adequately addresses the safety concerns of the residential, the proximity of the residential properties to the south. I have had a discussion recently with Mr. Andy Spurling representing Spurling Development, and he said he has contacted a goodly number of the residents of the apartments to the south and neither he nor other representatives of Spurling Development, nor the residents with whom he spoke object to the lake being, becoming a permanent facility in accordance with these plans.

President Musgrave: But, we have nothing in writing for the record?

Bill Jeffers: We have nothing in writing to that effect, only a phone call yesterday. I told Mr. Spurling that he and his apartment residents were free to come tonight and express their concerns or their comments or inquiries at the board meeting, and he said that if there were any they would be here.

President Musgrave: And they were notified?

Bill Jeffers: By Mr. Spurling. Based on the fact that I did have previous concerns about the stability of these embankments, and specifically that we would be, that I would be recommending and you would be approving on my recommendation the use of this borrow pit as a detention facility, I wanted to make it perfectly clear that the borrow pit pre-existed any review or submittal of the plan. That I believe that the design engineer has taken adequate precautions to stabilize the bank and embankments in accordance with this, with the recommendations found in this certified report. So, therefore, I believe that, or I will simply say that I recommend the plan for approval.

President Musgrave: Is there anyone here to speak to this matter? Is there a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioner Nix: Aye.

Commissioner Crouch: Aye.

President Musgrave: I oppose it. Motion carries.

<b>William S. Hirsch Subdivision, Section Two: Preliminary Plan</b>
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President Musgrave: We move now to Heritage Park Subdivision, Section Two, final plan.

Bill Jeffers: William S. Hirsch Subdivision? We just finished Heritage Park, I believe.

President Musgrave: So sorry.

Bill Jeffers: Okay, no problem.

President Musgrave: We could do it again though.

Bill Jeffers: We could. Apparently I spoke so long we....okay, this is a preliminary plan for William S. Hirsch Subdivision, Section Two. Section One, if you'll look at your photograph is the kind of oddball shaped square down at the bottom left hand corner. That has already received approval on the condition that this phase, section two, would compensate for the shortage in detention of storm water, the shortfall that occurred in section one. The plan does exactly that, it compensates for the shortfall, thereby complying with your earlier condition. Approval of this preliminary plan will allow this subdivision to go forward to Area Plan Commission on the second Thursday of June for primary plat approval. I've had a lengthy discussion with Mr. James Morley, Jr., who's standing here before you from Morley and Associates, the design engineer. The plan comports with the drainage ordinance, and the County Surveyor recommends approval.

President Musgrave: Is there anyone in the audience to speak to the William Hirsch Subdivision, Section Two, preliminary plan? I see no one. Is there a motion?

Commissioner Nix: Motion to approve.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Mr. Jeffers, on a side matter, is this near the photograph of the weeds that I sent to you?

Bill Jeffers: The weeds?

President Musgrave: Do you recall the photograph—

Bill Jeffers: Oh, yes, Ma'am. This actually right now is an agricultural farm field just north of Sam's Club.

President Musgrave: Okay, that is near—

Bill Jeffers: Okay, and the weed, the picture of the weeds you sent to me is a piece of property that I believe may be still owned by the Hirsch—

President Musgrave: Trust?

Bill Jeffers: —Hirsch Trust, but on the south side of Sam's, across the street from Virginia Street.

President Musgrave: Well, I understand that the process has begun to force the cutting of those weeds, but I wish Mr., somebody from Hirsch was here today.

Bill Jeffers: Mr. Hirsch, one of the Mr. Hirsch's is here in the audience tonight.



President Musgrave: Okay.

Jim Morley, Jr. : Are you talking about the weeds right behind like the Home Depot?

President Musgrave: Yes.

Bill Jeffers: Yes, sir.

Jim Morley, Jr. : I believe that's owned by Wal-Mart.

Bill Jeffers: Did Mr. Hirsch sell that to Wal-Mart? Is that correct?

Mr. Hirsch: That was sold to Wal-Mart.

Jim Morley, Jr. : I know that because we looked at that piece of ground when we were considering sites.

Bill Jeffers: That almost became a part of Glass Subdivision.

Jim Morley, Jr. : Yeah, but, I think—

Bill Jeffers: But, then it was like lot eight, but then it was deleted from that subdivision and I thought it remained a part of the Hirsch Trust.

Jim Morley, Jr. : It's, at least of a year ago or so it was owned by Wal-Mart, because we contacted them when we were looking for an office location. That's the only reason I know who owns it.

President Musgrave: Could I have your card?

Jim Morley, Jr. : Yeah.

President Musgrave: Thanks.

Bill Jeffers: I'm sorry, Madam Chairman, Chairlady, my information was apparently incorrect. I thought it still belonged to the Hirsch Trust.

President Musgrave: Well, I've been contacted by the original complainer, and he's going to get a letter from many of the property owners around there. You know, it would be nice if the right individual got that letter.

Bill Jeffers: Yes, it would. It would surprise me if Wal-Mart, if they do own it, that they would not readily—

President Musgrave: Cut it.

Bill Jeffers: —denude it of weeds, because they keep their detention basin perfectly manicured. They may be unaware that they are responsible for that patch of weeds.

Jim Morley, Jr. : When I say Wal-Mart, I mean Sam's Club.

Bill Jeffers: Whoever.

Jim Morley, Jr. : Yeah.

Bill Jeffers: Walden Enterprises.

Jim Morley, Jr. : They've got two different land divisions, a land division in which it's subdivided ground, and a land division of parcelized ground. It falls under their parcelized ground land division.

President Musgrave: It's under the parcelized. Okay, somebody may contact you to find out exactly where that is, okay?

Jim Morley, Jr. : Okay, I don't know if I can remember that or not.

President Musgrave: Well, give it a stab.

Jim Morley, Jr. : I'm pretty sure it's the Wal-Mart Corporation that owns that.

President Musgrave: Okay, now we did vote on William Hirsch?

Bill Jeffers: Thank you, Jim.

President Musgrave: Yes, we did. Are there other drainage plans?

Bill Jeffers: There are no others. Mr. Hirsch, I apologize for thinking that was your patch of weeds. Apparently—

Mr. Hirsch: We'll take it back and start over.

Bill Jeffers: I'd take it back for ten dollars and cost.

<b>Discussion of Gillies Oak Meadow Condominium Issue</b>
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President Musgrave: We move now to discussion of Gillies, did I say that right?

Commissioner Crouch: Gillies.

President Musgrave: Gillies, Gillies Oak Meadow Condominium issue.

Ted C. Ziemer, Jr.: Does anybody have the copy of the letter? I didn't know that this was going to be discussed today. Does anybody have a copy of my letter? Do you have a copy of the letter I sent you?

Commissioner Crouch: I don't think I remember a letter.

Ted C. Ziemer, Jr.: I sent all three, I mean, I sent it to all the Commissioners, I sent it to B.J., I sent it to you. It was my opinion regarding this matter.

Bill Jeffers: Oh, I'm sorry, I haven't seen that.

President Musgrave: No, it was just the last, a couple of days ago. Hold on a minute.

Ted C. Ziemer, Jr.: I asked that it be reviewed, and then to give me any thoughts that you had on it. I did hear from Cheryl. I can pretty much remember this though without having the letter here. That would just help me to be more explicit. I'll start

with the bottom line, Mr. Gillies. We believe that there's nothing the county can do for you. Now, having said that, I'll go back and tell you why that is my opinion. From looking at the drawings that were shown to me by the County Surveyor, and showing where the retention lake should be, and where the ditch goes through, and where your building is to the east of the ditch and where there are....yeah, thank you. I may not need it, I remember pretty well what I do, but thank you, it will be nice to have that handy. There was a site plan approval given for Mr. Bauer, you're correct, he developed that to put in those condos, and he was to put in a retention lake, and he was to put in the ditch that you lie, I believe, east of, and then the drainage that you're complaining about is from the condos that lie southwest of you and the ditch. They drain into the ditch, the ditch runs over, the water comes down to your building, maybe hits your electrical or whatever unit that you have outside and causes whatever other problems that you face. The plan that was approved by the Area Plan Commission, the site plan did have on it that the lake, the detention lake should be installed, and further that the ditch should be constructed running north, approximately north-south across the property with you being west of the ditch, and the other properties in question lying kind of southeast of the ditch. Mr. Bauer apparently constructed the ditch, from the information that's available to me, and he did not construct the detention lake. The permit, thank you, the permit that was granted was, let me see if I can find the date for the permit, I know I had it in here, yeah, it was approved by the Plan Commission on August 9, 1994. At that time the county ordinance in effect for drainage really only addressed two issues, one being pipes, and the other one being retention lakes. It did not address ditches, and it gave no remedy to anybody in the county that could be exercised by the County Commissioners for any other matter. So, that ordinance that was then in effect, really didn't have any teeth in it, so far as violations of the ordinance are concerned. The construction was done pursuant to a permit, which was in effect prior to the ordinance being changed. Now, the ordinance was changed in 1994. The same ordinance was in effect from at least 1986 to 1994. The 1994 ordinance is replete with provisions allowing the county....now, I should back up just another second, what's happened, I think, there's been no complaints from the time this was done back in 1994, apparently, at least we're not aware of any for a number of years. Then your complaint surfaced, whenever it did, and I apologize, Mr. Gillies, that I don't know exactly when that was, but it's fairly recent as time goes by compared to the fact that it was installed in 1994. What has happened in the meantime, I'm told, I've never seen it, but I'm told that it has filled with debris, it has folded in on itself from the dirt on the sides, the top of the ditch is falling in to it, limbs and trees and sticks and other brush are in the ditch, which are causing the ditch not to carry the water that it was designed to carry from the homeowners who live southeast of you, and accordingly since it won't carry the water it's overflowing the banks to the east and flowing down on your property. What's needed to get your problem solved, is for the homeowners, lying southeast of you, either through their condominium association, or other homeowners association, and I don't have any knowledge of what kind of associations there are there, I'm saying either individually or through their associations, they are responsible for maintaining that ditch, because it runs across their property. You have a, I'm not going to be your lawyer, because I'm an attorney for the County Commissioners, but I suggest if you contacted your attorney, you would be advised that you have a good action against those owners to get this problem cured, but you don't have, you've asked the county to help you and we can't. There is nothing in effect that allows us to do that. Had this been developed after the adoption of the new ordinance by the county, then, you know, we would be very happy, and we always do, we always do anything we can to enforce any county residents rights, if we have the right to do that. It's my opinion that we don't have in this particular case. That doesn't mean that you don't have rights, and you certainly

do, and there is a way, through civil law, that you can exercise those rights, but not at, in my opinion, county expense. So, that's pretty much my opinion, and I'm, of course, pleased to answer any questions you have. I'll tell you that my opinion is based on information provided to me by the County Surveyor, and a research of the applicable law.

Don Gillies: Okay. Excuse me, first of all that ditch was there in 1988, it was before those....that was there when the bank owned those properties. In fact, the bank put it there. Okay? Because of the problem of the water coming down the hill. Okay? At that time, when the Bauer, Mr. Bauer bought the properties, we went to him and his people, I guess it was Morley and Associates were the one's—

Ted C. Ziemer, Jr.: They did draw the plan, yes.

Don Gillies: Yes, sir, and made them aware of our concerns, and the problem that we could see coming, because they were going to have to change elevations in some of the land. So, not only did we get the water, the rainwater, we got water from inground sprinkling systems, and also the elevation also changed the speed of which that water came down, okay. So, this was all done prior to even, I think, Mr. Bauer even submitting plans, that we had sat down with him and said, look, we are very concerned about, okay. The, at that time, we went to Mr. Wathen, who at that time, I guess, was in charge, and, Jim, maybe you can help me, they had two groups, one was mud coming down, the other was water coming down.

Bill Jeffers: He was with the Soil and Water Conservation District at that time.

Don Gillies: Yeah. He did have the authority, and exercised that authority to tell Bauer Homes that that was not acceptable and it needed to be cleaned. He gave him a time period in which to do that. They did something, it wasn't right, but they did something. Mr. Wathen came back to us and said we're going to see how this works. This is what we've done. Okay? There was an authoritarian figure there, or had an authority to do something, I guess, I would like to know where that authority went? Because it was with the county.

Bill Jeffers: Mr. Wathen's authority with the Soil and Water Conservation District lies with a memorandum of agreement that the Soil and Water Conservation District has with the Indiana Department of Natural Resources and the Indiana Department of Environmental Management. Since 1992, the Soil and Water Conservation District has acted as an agent to the two state agencies—

Don Gillies: Uh-huh.

Bill Jeffers: —with regard to what we call Rule Five, which is a state, Indiana administrative act that gives those three, those two state agencies and the Soil and Water Conservation District, it gives them jurisdiction over erosion and sediment issues—

Don Gillies: Uh-huh.

Bill Jeffers: —that were affecting you during a construction project, where erosion from upstream caused sedimentation to come down on to your property.

Don Gillies: Uh-huh.

Bill Jeffers: An active construction site. It's not a county jurisdiction.

Don Gillies: Okay. Well, then does that authority still exist with them? That they have charge and they can—

Bill Jeffers: It exists so long as the permit issued, it's called an NPDES permit, issued by the Indiana Department of Environmental Management. So long as that permit is active, and they are generally active for around five years or so, the Soil and Water Conservation District still has the authority to come make inspections with regard to erosion and sedimentation from a construction site that is acting under that permit.

Don Gillies: Okay.

Bill Jeffers: I believe, most likely that that permit has been terminated because the project has been over for some time. So, the only other erosion and sediment control issue would be under the local erosion and sediment control ordinance.

Don Gillies: Which is?

Bill Jeffers: Three pages long and enforced by the County Engineer.

Don Gillies: The County Engineer?

Bill Jeffers: With regard to erosion and sediment.

Don Gillies: Uh-huh.

Bill Jeffers: Not necessarily storm water drainage. That would mean that the erosion would have to be occurring on the property that's the subject of your complaint, and that that erosion was generating sediment that's carried across the line and deposited on your property.

Don Gillies: Well, yeah, that's still coming down at one end. It still is. It's washing right down the hill.

Bill Jeffers: And you could—

Don Gillies: And that's at the apex—

Bill Jeffers: —again contact Mr. Wathen, who now works for the County Engineer who enforces that code locally.

Don Gillies: Uh-huh.

Bill Jeffers: And you could contact him at 435-5774, and ask him to come inspect your site once again.

Don Gillies: Okay.

President Musgrave: Well, at least—

Bill Jeffers: To determine—

President Musgrave: Go ahead.

Bill Jeffers: To determine whether a violation exists under the local code.

President Musgrave: I want to apologize for you hearing all of this bad news standing at a podium. I had hoped that there would have been time for a phone call to have been made, but I see that we did not have that opportunity. So, I apologize for making you stand here and hear this.

Don Gillies: That's not a problem. I've been standing since 1970, or 1993 trying to get this thing solved.

President Musgrave: Well, it looks like you have one more possible avenue, but that this board cannot help you in the way that you had hoped.

Don Gillies: Uh-huh. Okay. Well, I thank you for the opportunity to at least come and talk to you.

President Musgrave: Thank you for coming.

Don Gillies: Appreciate the help, the comments, the concern.

Commissioner Nix: Did you get Mr. Wathen's number?

Don Gillies: I'm sorry?

Commissioner Nix: Did you get Mr. Wathen's number

Don Gillies: Yeah, I know Mr. Wathen, yes. I'll go see him. I will reinvestigate with an attorney. I've done that once, and it got into a letter writing campaign, and that was a lot of costly letter writing and it didn't really go anywhere.

Ted C. Ziemer, Jr.: To assist you with that, I will write you, or by e-mail, I see you have an e-mail address, I'm going to send you a copy of my opinion, so that you will have the basis for what I'm standing by. You can show that to your attorney, and I'll be delighted to talk to him if he has other thoughts.

Don Gillies: Okay.

Ted C. Ziemer, Jr.: Now, none of us are omniscient, and it may be that I've overlooked something here. I don't think so, but I would be happy to talk to your lawyer.

Don Gillies: Okay, thank you.

President Musgrave: Thank you.

Don Gillies: Thank you all very much.

<b>Ditch Maintenance Claims</b>
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President Musgrave: We move now to claims, Mr. Jeffers.

Bill Jeffers: We have here in this folder a couple of claims for maintenance work that's been accomplished thus far in 2005. The claims are in order, and the County Surveyor recommends that they be approved for payment.

President Musgrave: Do I hear a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Motion carries.

#### **2005 Annual Ditch Maintenance Contracts**

President Musgrave: Are there any contracts?

Bill Jeffers: There are some contracts, which your Recording Secretary has in a folder.

Commissioner Crouch: We can stamp those.

Bill Jeffers: The contracts are in order, therefore, work to be performed in 2005 by the maintenance contractors that were approved by you in March.

President Musgrave: Do I hear a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

#### **Encroachment Agreements**

President Musgrave: Are there encroachment agreements?

Bill Jeffers: No encroachment agreements at this time.

#### **Easement Dedications**

President Musgrave: Easement dedications?

Bill Jeffers: No easement dedications at this time.

**Other Persons Wishing to Address the Board**

President Musgrave: Are there other persons wishing to address the board? I see none.

**Discussion from the Board**

President Musgrave: Is there any discussion from the board?

Bill Jeffers: Well, I'm not a member of the board, but I would strongly encourage the board to move forward with the proposed, the County Surveyor proposed some amended language for the drainage ordinance to address testing of flexible pipe. It's languished for some time while we've worked on some other, more important issues, while you've worked on more important issues, through all these maintenance contracts and so forth that's occupied the first quarter of the year. But, at this time I would like to pressure you to move forward with that language to put it into legal jargon and take it to the County Commissioners for a hearing, because there is a goodly amount of plastic pipe, and other types of flexible pipe that are being installed in Vanderburgh County with no meaningful testing, and it's resulting in the potential for a good deal of pipe repair at the expense of the county in the long run.

President Musgrave: What is the pleasure of the board?

Commissioner Nix: Is there, when you say testing, are you wanting to do something local here? Or are you talking about an industry standard that you want to look at? Some kind of a bar or a datum to meet? What are you thinking about that?

Bill Jeffers: Well, basically, the language would, if inserted into, as amendments into the drainage code would require that all flexible pipes, such as high density polyethylene pipe, or corrugated metal pipe, after say 30 to 60 days after installation it would have to be mandrel tested. The developer or his contractor would hire a local testing agency, or a local testing firm to drag a mandrel through the pipe to make it sure it hadn't deflected unreasonably.

Commissioner Nix: I guess, the concern I have is that if we have a concern before they put it in, should we not be looking at that versus after the fact?

Bill Jeffers: There is language in the ordinance that requires the contractor to notify the County Engineer 24 hours in advance of putting the pipe in the ground. But, customarily the County Engineer has not had the manpower or the time to—

Commissioner Nix: But, I guess, you know, if you say a mandrel test at 60 days, a lot of times there's a lot of things that cover this, you know, there's things that go on that really impede a project—

Bill Jeffers: If they had to dig it back up?

Commissioner Nix: Exactly. I mean, wouldn't we be better off if we have a concern about a specific type of pipe, PVC, polypropylene, or whatever, that we just say we don't want you to use it, or you can't use it.



Bill Jeffers: We tried that when we wrote the ordinance in 1994. We tried to eliminate flexible pipe and use only rigid pipe, and these chambers had 60 to 70 people from the plastic industry at every hearing, and it was quite a dog and pony show.

Commissioner Nix: I guess, my question is how many mandrel tests that you do now fail with this type of pipe? What percentage? Just a round number.

Bill Jeffers: A goodly percentage would fail. I mean, you saw pictures of a pipe I believe out on the west side at a project, and those pictures were brought in here recently by Pat Seib, and they were just talking about cover on the pipe, I believe, but if you looked at those pictures closely the pipe was only 100 feet long and wasn't straight from one end to the other. That was a 36 inch pipe.

Commissioner Nix: So, your recommendation would be, your proposal would be, an ordinance would be to do what now? So, I understand.

Bill Jeffers: I could forward you, I'm sorry I didn't bring it with me, but I had previously forwarded the information to the board, and, basically, all pipe less than 36 inches in diameter would have to have a mandrel pulled through it. A mandrel, as you know, measures the acceptance, it's either a go or no go situation. If it doesn't go, that means the pipe has been deflected by five percent or more, indicating potential pipe failure. There's many pipes that we've found, both John Stoll and myself have inspected personally, where the deflection has been so severe, that the pipe has totally failed. What we do now is we collect two dollars a lineal foot for a pipe outside the right-of-way, and put it in an escrow account, kind of as an insurance policy for any pipe failures, but when we contemplated that cost, we were thinking in terms of well laid pipe, and the eventuality of rare failures, there would be enough money to cover that over the next 25 to 30 years.

President Musgrave: Could I ask that we continue our discussion of this at the next meeting, and perhaps the two of you can flesh out the discussion at that time?

Bill Jeffers: Well, what we might do, since both of us probably understand the issue in depth, is just for Mr. Nix and myself to get together with John Stoll and discuss it, bring back a recommendation to the rest of the board.

Commissioner Crouch: And perhaps get that recommendation to the County Attorney also.

President Musgrave: In advance.

Bill Jeffers: Yes, Ma'am.

President Musgrave: Do I hear that in the form of a motion?

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: Motion carries.

Commissioner Crouch: Motion to adjourn?

Commissioner Nix: Motion to adjourn.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

President Musgrave: Motion carries.

(The meeting was adjourned at 5:24 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Bill Jeffers  
Lee McClellan  
Jim Morley, Jr.  
Members of Media

Bill Nix  
Ted C. Ziemer, Jr.  
Dave True  
Mr. Hirsch

Suzanne Crouch  
Madelyn Grayson  
Don Gillies  
Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
JUNE 28, 2005**

The Vanderburgh County Drainage Board met in session this 28<sup>th</sup> day of June, 2005 at 4:00 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the June 28<sup>th</sup> meeting of the Drainage Board.

**Approval of May 24, 2005 Drainage Board Minutes**

President Musgrave: First on the agenda is the approval of the minutes of the previous meeting.

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

**Heartland Crossing: Section Three: Preliminary Plan**

President Musgrave: We move to drainage plans. We have one on the agenda, Heartland Crossing, Section Three, preliminary plan. Mr. Jeffers?

Bill Jeffers: Heartland Crossing, Section Three is a continuation of the Haas Development on the west side, out on Hogue Road, near Eickhoff Road. It's going to be mainly condominiums and some single family. This is a preliminary plan, which allows the primary plat to move forward to Area Plan Commission in the month of July. The County Surveyor has reviewed the plan, found it substantially comports with the drainage ordinance, and recommends approval of the preliminary plan for Heartland Crossing. Mr. Gary Yellig, who's a professional engineer and land surveyor is here representing Haas Development. He stamped the plan.

President Musgrave: Is there anyone in the audience to speak to Heartland Crossing? I see no one.

Commissioner Nix: How much property does this take up, as far as acreage?

Bill Jeffers: That should be in the narrative. Gary, do you know off the top of your head?

Gary Yellig: Roughly (inaudible) acres.

President Musgrave: I'm going to have to ask you to come to the microphone and identify yourself, and say your answer for the record.

Gary Yellig: Hello, my name is Gary Yellig. I'm the engineer for the Haas family. To answer your question, the area of that project is roughly 25 and one half acres.

Commissioner Nix: Okay.

President Musgrave: Are there any other questions?

Commissioner Crouch: Are there any remonstrators?

President Musgrave: I asked for speakers and no one came forward. Is there a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you, Mr. Yellig.

Bill Jeffers: Thank you, Gary.

Gary Yellig: Thank you.

### **Encroachment Agreements**

President Musgrave: Mr. Jeffers, we move to encroachment agreements.

Bill Jeffers: We're awaiting a revised encroachment agreement to arrive in your chambers. It's not here yet. If it doesn't arrive in a timely fashion, or to your satisfaction, I would ask that you continue it for two weeks.

### **Ditch Maintenance Claims**

Bill Jeffers: The only other item that I have is claims for maintenance that's been completed. I'm asking for payment of those contractors.

President Musgrave: Maintenance of the ditches?

Bill Jeffers: Yes, Ma'am.

President Musgrave: Okay, is there a motion to approve the claims?

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

**Public Comment**

President Musgrave: We have a line on our agenda for public comment, if there is any public here to comment. I see no one.

**Receipt of Lease Payment: Inland Marina: Eagle Slough**

President Musgrave: You say that we have no payments to receive or other maintenance contracts?

Bill Jeffers: I believe Madelyn Grayson has a payment from Marina Pointe for a lease of a portion of Eagle Slough that they also maintain for us by dredging. I would recommend you simply receive that and put it into the Eagle Slough account, or the general drainage account, whichever you prefer.

President Musgrave: Do we need a motion on that? Or do we just receive it?

Bill Jeffers: I would—

President Musgrave: Just receive it?

Bill Jeffers: —it's an annual thing. I would just receive it and put it in the appropriate, have the Auditor put it in the appropriate account.

**Scheduling of Continuation of Meeting to July 12, 2005**

President Musgrave: Is there any other business to come before the Drainage Board today?

Bill Jeffers: I have no other business, except to ask you for an extension of the encroachment agreement that I anticipated being here.

President Musgrave: So, two weeks from today would be the 12<sup>th</sup>.

Bill Jeffers: Unless that conflicts with a long meeting of yours.

President Musgrave: It's hard to say at this point. That's the day that we have Solid Waste. Do the Commissioners have any problem hearing this during our regular Commission meeting at the end of the agenda?

Commissioner Nix: None whatsoever.

President Musgrave: Alright, do we have a motion?

Bill Jeffers: Your motion would be to continue this meeting, rather than to adjourn, and set a date for the completion of this business. That way you don't have to advertise.

President Musgrave: Okay. Is there a motion?

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: We are adjourned. I didn't mean adjourned, but recessed.

Bill Jeffers: The record shows that you're recessed, thank you.

President Musgrave: Thank you, sir.

(The meeting was recessed at 4:05 p.m.)

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
JULY 12, 2005**

The Vanderburgh County Drainage Board meeting from June 28, 2005 was reconvened July 12, 2005 at 4:15 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

President Musgrave: Call to order the continuation of the Drainage Board meeting from, was it last week, Mr. Jeffers?

Commissioner Crouch: Two weeks ago.

President Musgrave: Two weeks ago.

Bill Jeffers: Yes.

President Musgrave: Mr. Jeffers, you have the floor.

<b>Drainage Easement Encroachment Agreement: Lot 23 Cypress Creek</b>
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Bill Jeffers: Thank you. Our only item of business in this continuation is to complete the consideration of this drainage easement encroachment agreement that's on your desk, prepared by Keith Poff, Professional Engineer, here in the audience, on behalf of Shannon Sullivan, 1008 Wyngate Court. That is in Cypress Creek Subdivision on Hillsdale Road. On the last page of this agreement you will find what we call exhibit A, exhibit B, and exhibit C, that shows the layout of Mr. Shannon's property behind his home, his existing home. He would like to build a pool, a swimming pool. The swimming pool, by necessity, would have to encroach into a drainage easement, as shown on that exhibit. The lines directly adjacent to the pool represent an open channel that drains a 21 inch pipe over to the detention basin, which is the large open area shown as a depression. There's a cross section labeled "A" "A" across the channel and across the pool area. If you look up here where it says cross section, you'll see that the water never will exceed the banks of this channel during a heavy flow that was calculated by Mr. Poff as part of the drainage plan. The pool will not be inundated by the flow in that channel, unless there would be some extreme condition or obstruction somewhere else. The drainage easement encroachment agreement is the standard form prepared by our legal staff.

President Musgrave: Who is your legal staff?

Bill Jeffers: In this case, this instrument is indicated as being prepared by Ted C. Ziemer, Jr, County Attorney.

President Musgrave: Which page does it say that?

Ted C. Ziemer, Jr.: I did that for a previous drainage encroachment that we had.

Bill Jeffers: Right. Oh, oh, I'm sorry, the form, the text of the form, in it's blank condition was prepared by our attorney. Mr. Shannon Sullivan filled out the form, signed the form, had it notarized by Martha R. Jordan, and if your attorney finds the form to be in good order, the County Surveyor recommends that we approve this form, and have it recorded.

President Musgrave: Are you representing the Sullivan's? Or are they here representing themselves?

Bill Jeffers: The Sullivan's are represented tonight by Mr. Keith Poff, their engineer.

President Musgrave: Oh. He's not an attorney.

Commissioner Nix: He's an engineer.

President Musgrave: So, he's not actually representing the Sullivan's, he's just here to discuss the engineering details of the plan that's attached?

Bill Jeffers: He prepared the plan that's attached.

President Musgrave: Okay.

Bill Jeffers: That's correct. He prepared that, and certifies that plan.

President Musgrave: Alright, but he does not represent the Sullivan's legally?

Bill Jeffers: No, Ma'am.

President Musgrave: Okay, are there any questions about the plan? Is there any issue with the legal form of the document?

Ted C. Ziemer, Jr.: No, since I prepared it, I think it's great.

President Musgrave: I just wanted to make sure it was okay. Any motion?

Commissioner Nix: I would like to make a motion that we approve it.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you, sir.

Bill Jeffers: Thank you.

President Musgrave: Is there any other business to be heard by the Drainage Board?

Bill Jeffers: That is all the business that we continued.

Commissioner Crouch: Motion to adjourn.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries. Thank you.

(The meeting was adjourned at 4:20 p.m.)



**Those in Attendance:**

Cheryl Musgrave  
Bill Jeffers  
Gary Yellig

Bill Nix  
Ted C. Ziemer, Jr.  
Others Unidentified

Suzanne Crouch  
Madelyn Grayson  
Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
JULY 26, 2005**

The Vanderburgh County Drainage Board met in session this 26<sup>th</sup> day of July, 2005 at 3:57 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: It looks like a good time to start the Drainage Board meeting. So, I'll call that to order for Tuesday, July 26<sup>th</sup>.

**Approval of June 28, 2005 & July 12, 2005 Drainage Board Minutes**

President Musgrave: We have minutes of the previous meeting to approve.

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Hawthorne Ridge: Modified Final Drainage Plan**

President Musgrave: First on our agenda is Hawthorne Ridge, modified final drainage plan. Mr. Jeffers?

Bill Jeffers: Yes, I have the plan here if anyone would like to look at it. But, after I looked at it, I realized that the modification they are asking for is so minor that it could have not even come before the board. They're just wanting to modify one structure because of their vendor, M&W Concrete, and their contractor, BMB, thought it would be more economical and more practical to redesign this one particular structure, and it has no adverse affect on anything whatsoever.

President Musgrave: But, there's no problem?

Bill Jeffers: Yeah, the County Surveyor recommends approval of the minor modification of the final drainage plan for Hawthorne Ridge Estates. Everything else remains the same.

President Musgrave: Do I hear a motion?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: The motion carries.

**Ansbro Subdivision (Withdrawn)**

President Musgrave: Then we move to the more troublesome issue of Ansbro Subdivision. I received your e-mail, Mr. Surveyor, regarding the issues that we don't have an agreement with the Town of Darmstadt. I discussed that with the County Attorney, but I would like him to give his opinion as to whether we should be making drainage plans for the Town of Darmstadt.

Ted C. Ziemer, Jr.: Well, I would, I think I would like to further research that, but I would like to suggest that we defer approval until we see if we shouldn't have an agreement with Darmstadt. I'm thinking we should. It's a political subdivision within Vanderburgh County, just as the City of Evansville is a political subdivision within Vanderburgh County, and we don't, I mean, we have an arrangement with the city to do drainage work, but I don't think we have such an arrangement with Darmstadt, and I would like to look into that. So, I also understand that prior Commissioners under prior administrations have in fact gone ahead and done drainage approval work for Darmstadt without an agreement being in place, but that doesn't mean that we shouldn't investigate whether we should have one now.

President Musgrave: Commissioners?

Commissioner Crouch: Do you, would it be the pleasure of the attorney or the Surveyor to defer this until the next month? I don't know the urgency on this.

Bill Jeffers: I would just like to make a comment or two, if I may. What I've passed down the line here is a statute, IC36-9-28.5, that I became aware of a few years ago, and had brought to the attention of a previous board where the legislature says that by January 1, 2001 the County Commissioners, the City Council, or the Town Board should establish a policy by resolution or ordinance governing storm water runoff from developing areas. If you'll look down at subsection five, you'll see that as regards a town, such as the Town of Darmstadt, their policy should encompass the entire town area, territory, unless the legislative body of that town specifies, by resolution, that the territory of the town be included in the policy of the county. As Mr. Ziemer pointed out we customarily have, the board has allowed me to review the plans and taken action on those plans, because the Area Plan Commission requires that a drainage plan be approved before they look at the preliminary plat next month. So, we did it as a customary favor before this legislation took place. But, since this legislation has taken place, I asked the Town Board to take an action, and all they did was send some letters showing that they had asked us on occasion to take an action. They, and that's why I brought it before your board at this time. This is the first one that's come from the Town of Darmstadt, and I wanted to make you aware of the same thing that I made the previous boards aware of, that there is no policy known to me, and that you may be taking a risk in approving something outside the boundaries of this statute.

Ted C. Ziemer, Jr.: If we delayed this for a month—

Bill Jeffers: No problem.

Ted C. Ziemer, Jr.: Is it a problem for them?

Bill Jeffers: No. Right now there were so many issues involved, which I don't need to go into at this time, because they've withdrawn it temporarily. There's other issues besides this one that are involved, and they're going to discuss it with their client who's out of town at the time and decide how to re-approach this.

Ted C. Ziemer, Jr.: So, you weren't planning to ask for approval today in any event?

Bill Jeffers: Or an extension at this time.

President Musgrave: Okay. It's withdrawn?

Bill Jeffers: Right, but I did want to point this out to you—

President Musgrave: Thank you.

Bill Jeffers: —so that you could pursue it with your legal counsel.

Commissioner Nix: I'm curious, who did you speak with at Darmstadt about these issues?

Bill Jeffers: I speak with, the question was who do I speak with in the Town of Darmstadt? I speak with David Whipple who's on the Town Board, and has been Town President.

Commissioner Nix: Okay, he can represent Darmstadt on these issues then?

Bill Jeffers: Basically, I just touch base with him because I know him.

President Musgrave: Mr. Jeffers, has, since 2001 has the Commission taken action on any drainage plan presented to it within the town limits of Darmstadt to the best of your knowledge?

Bill Jeffers: The last thing was some minor expansion of the parking lot at Bauer's Grove, and I don't know if it's been since January 1, 2001 or not, I would have to look that up.

President Musgrave: Well, Mr. Ziemer, would it be possible for the Town of Darmstadt to adopt the appropriate language and make it retroactive to 2001?

Ted C. Ziemer, Jr.: Certainly.

President Musgrave: Alright, I would ask that you explore that in your discussions with the Town Council.

Ted C. Ziemer, Jr.: Can you, is it W-h-i-p-p-l-e?

Bill Jeffers: Yes, sir.

Ted C. Ziemer, Jr.: Do you have a phone number for him here? I'll call your office. Never mind.

President Musgrave: Alright. Then, have we settled the Ansbro Subdivision matter on the agenda?

Bill Jeffers: Yes, Ma'am.

**Hargett Brothers Enterprises, LLC**

President Musgrave: We will move then to Hargett Brothers Enterprises, LLC.

Bill Jeffers: As regards Hargett Brothers Enterprises, which is a scale company just south of, it's coming up on your screen, it's just south of the intersection of Mill Road and St. Joe Avenue where the County Garage is. It's just south of the Warrick County Co-Op. We ran into some technical issues regarding the drainage basin, due to grades and building elevations and so forth. They're just very technical, and Mr. Chris Weil is the design engineer here representing Hargett Brothers Enterprises, and I believe he's going to ask for a one week extension to consider the plan, because he has to redesign some building elevations.

President Musgrave: Do you want to approach and ask for that, sir? Please state who you work for.

Chris Weil: I'm Chris Weil, I'm an engineer for Hinderliter Construction, the design/build firm on this project. I think what we're going to do is probably revise some of the way we're conveying the surface runoff. We may change some of the open channels to pipes and inlets. So, I would like to request a one week extension on this.

President Musgrave: Let me ask Commissioner Crouch, would this occur at the end of our regular Commission meeting then? Immediately upon adjournment?

Commissioner Crouch: I think that is correct.

President Musgrave: Okay, then that is what we will put it on our agenda for. So, you would probably want to arrive here at 3:30, because our meetings don't last, well, some meetings don't last long. I'm not making any promises about next week for the book, okay.

Chris Weil: Okay.

President Musgrave: Is there a motion?

Commissioner Crouch: I'll make a motion that this be continued until next week's meeting, which would be on August the 2<sup>nd</sup>.

Commissioner Nix: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: The motion carries.

**Proposed Drainage Code Amendments: Flexible Pipe**

President Musgrave: We have other business, the proposed drainage code amendments regarding flexible pipe.

Bill Jeffers: I believe I e-mailed you the document I'm passing down the way right now last week sometime. What I'm simply asking is, you've also seen this language at least once in the past year, and the previous board saw it once, and the County Surveyor is asking the Drainage Board to act today to forward this proposed code language to the Board of County Commissioners for, and schedule a public hearing at some time in the near future to explore adopting an amended drainage code to incorporate the language that begins on page two of what I just handed to you. It would be inserted, if it were passed by the Board of County Commissioners, it would be inserted into section 13.04.300 of the county storm water drainage code. Then the language follows on page two and the top part of page three. What I would ask is that the Drainage Board refer it to the County Attorney to make sure that the language is appropriately written, or that the County Attorney, if not, that the County Attorney would put it into appropriate form, so that if you have a hearing, if you so choose to have a hearing on this issue, that the language presented at the hearing could be codified and passed.

Commissioner Crouch: What, Mr. Jeffers, what, if any, groups or organizations would be opposed to something that would increase the standards for the flexible pipe?

Bill Jeffers: It may find displeasure with people who would be opposed to spending more money, because this would require the subdivision developer or the project site operator to pay for the inspection of the pipe.

Commissioner Nix: Could—

Bill Jeffers: Hire a testing company to come out.

Commissioner Nix: We've had this conversation a few weeks ago, you and I spoke on this.

Bill Jeffers: Right.

Commissioner Nix: Could you just, in a nutshell, kind of explain the reason for this, so that everyone understands what—

Bill Jeffers: The County Engineer and I have come across plastic pipe, flexible pipe, corrugated plastic in particular, that has been installed both in subdivisions that become the responsibility of the county, and in commercial subdivisions that remain the responsibility of the commercial landowner, where the pipe has been installed in such a way that it deflected or cracked because of poor installation or installation not in conformance with the manufacturer's recommendations. Our code and our policy requires that all pipe be installed according to the manufacturer's recommendations, but your County Engineer and his staff do not have anywhere near the adequate personnel or time to go out and check every single installation as it's being put in the ground. Therefore, some of it's rolled in the ground and covered up before your inspectors have an opportunity to view it, and by the time they get around to their final inspection it's already deflected, or cracked. That which they can see by looking up through there with lamps or what have you, they reject. But, that which they don't see, we don't know about until a total failure. Now, when you do a mandrel test you have to drag this measuring device down through the entire length of pipe so you can catch those 12 inch pipes and 18 inch pipes that you can't visibly look down or crawl through, you would catch the deflection in those—

President Musgrave: Twelve inch pipe....crawl through?

Bill Jeffers: Twelve inch pipe—

President Musgrave: Are we sending kids down there?

Bill Jeffers: No, I said we can't crawl through those.

President Musgrave: I was going to say, I can't.

Bill Jeffers: Well, a three foot, in here, when it's three foot in diameter or larger we don't require this mandrel testing, because you obviously could crawl through there and look at it.

President Musgrave: You can do that.

Bill Jeffers: Even I, even a person as large as I.

Commissioner Crouch: Was that the nutshell?

Bill Jeffers: That's a pretty large size nutshell, but there you have it.

Commissioner Nix: Thank you. Just to kind of clear the air there. I guess, the concern would really be from developers and home builders?

Bill Jeffers: Yes, and the Homebuilders Association has had the opportunity to look at this, and I have received some telephone feedback from Mr. Pedtke that he doesn't seem to....and I don't like it when other people put words in my mouth, so, you should hear from him at the hearing in person, but he doesn't seem, there doesn't seem to be a groundswell against this, because most developers are responsible and want the pipe to be put in correctly.

President Musgrave: So, if you'll go over the steps one more time. Send it to the County Attorney for his review, then send it where?

Bill Jeffers: To the Board of County Commissioners to schedule a hearing.

President Musgrave: Alright.

Bill Jeffers: Because all ordinances—

President Musgrave: I would say let's do it after the daylight savings time hearing.

Commissioner Crouch: Except we don't know when that's going to be.

President Musgrave: That's right.

Commissioner Crouch: But, I'll make a motion that we move this on to the County Attorney and after he has a chance to review it, he would bring it to the County Commissioners meeting, and we'll go from there.

Commissioner Nix: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: The motion carries.

Commissioner Nix: I have a question, what's the city doing now, Mr. Jeffers? In pertaining to this matter.

Bill Jeffers: I don't know. I would have to ask and get back with you on that. I don't even know if they allow plastic pipe in the city yet.

Commissioner Nix: I think they do.

Bill Jeffers: They most likely, the city is another municipality that hasn't done this.

President Musgrave: It is?

Bill Jeffers: The city does not have a policy established by proclamation or ordinance. It's not the only city in the state of Indiana that doesn't. They use our ordinance as a guideline, but they haven't adopted it by policy, by proclamation or ordinance.

President Musgrave: Do they do their own drainage?

Bill Jeffers: They do their own drainage review.

President Musgrave: Okay that's fine.

Bill Jeffers: The City Engineer.

President Musgrave: Then that works for us.

Bill Jeffers: So, they generally, because we have always written the drainage ordinances, and the MS4 ordinance that you will adopt, they'll probably cabbage that as well. That's what they've done in the past.

Commissioner Crouch: If, in your review of the ordinance, if you could also check to see what the state or the city does, that would helpful.

Bill Jeffers: I would like to put in a plug for the county. This impending, potential unification, I don't know what they're going to do to write their ordinances, since they use all of ours, historically.

President Musgrave: Alright, are we ready to move to encroachment agreements?

### **Encroachment Agreements**

Bill Jeffers: We have none today.

President Musgrave: Oh, that's outstanding.

### **Ditch Maintenance Claims**

President Musgrave: What about ditch maintenance claims?



Bill Jeffers: We have four ditch maintenance claims for work that's been completed by your contractors on four individual groups of drains in the county. They've been inspected by our inspectors, and the paperwork is in order, and the County Surveyor recommends payment of those claims.

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: The motion carries.

<b>Public Comment</b>
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President Musgrave: Is there any public comment here tonight? Do you have any comments you would care to make to the Drainage Board?

Bob Kerney: We got a letter stating that we were supposed to be here at 4:00 for the Drainage Board hearing.

President Musgrave: This is the Drainage Board hearing.

Bob Kerney: When we walked in, it was up on the screen, on the Ansbro property.

President Musgrave: I'm going to have to ask you to come to the microphone so that we can capture all of your comments for the record. Make sure you introduce yourself and give us your address.

Bob Kerney: I'm Bob Kerney, and I'm the adjoining property owner to the Ansbro Subdivision. We were just wondering, we're really not against them, what they're wanting to do, but the drainage is a real problem for us, because we have a drainage problem from them now.

President Musgrave: Well, what happened was that they withdrew their application for two separate reasons. One reason being that Mr. Jeffers found a number of problems with the application and they were going to work on that a little bit more, and then the second reason is that the Town of Darmstadt doesn't have an agreement with the Commissioners asking the Commissioners to oversee these matters for Darmstadt, and the County Attorney is going to work on that.

Bob Kerney: Okay.

President Musgrave: You may want to make your comments regarding the problems that you see with drainage to Mr. Jeffers should indeed he come to the point where we're reviewing this matter in the future.

Bob Kerney: They have two lakes on that property—

President Musgrave: Can I... may I ask that you make those comments after the meeting?

Bob Kerney: Oh, afterwards. Thank you.

Bill Jeffers: I'll meet with you after the meeting, Mr. Kerney. Thanks for coming.

President Musgrave: Thank you very much for coming. Any other matters to bring before the Drainage Board this evening?

Commissioner Crouch: Motion to adjourn.

Commissioner Nix: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: The motion carries.

(The meeting was adjourned at 4:15 p.m.)

**Those in Attendance:**

Cheryl Musgrave

Bill Jeffers

Chris Weil

Members of Media

Bill Nix

Ted C. Ziemer, Jr.

Bob Kerney

Suzanne Crouch

Madelyn Grayson

Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne M. Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
AUGUST 23, 2005**

The Vanderburgh County Drainage Board met in session this 23<sup>rd</sup> day of August, 2005 at 4:40 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the August 23<sup>rd</sup> meeting of the Drainage Board.

**Approval of the July 26, 2005 Drainage Board Meeting Minutes**

President Musgrave: We have the minutes of the previous meeting.

Commissioner Crouch: Move approval.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Heritage Park, Phase II: Alternate Final Plan**

President Musgrave: We now have drainage plans, and we start with Heritage Park, Phase II, the alternate final plan. Mr. Jeffers?

Bill Jeffers: Good evening, Drainage Board members. Bill Jeffers, Vanderburgh County Surveyor. I've laid on your desks the plan for Heritage Park, Phase II. I call this an alternate final plan, because it provides details of the detention basis that will require less earth moving and allow more usable building area within the lots adjacent to the basin. The developer desires this, and the recommendation is to approve the plan to provide this alternate should the developer wish to use it rather than the one you approved at an earlier date. Either plan will work. This plan may be, since it's been official and gives more building space on the valuable commercial land at the corner of Lynch Road and North Green River here, you can see it on your screen. The condition is that the soils engineer who designed the basin embankments must certify that all methods and dimensions of placing the fill material to ensure stability, and he will perform inspections and compaction tests in accordance with the plan. That is a part of the plan and that is the recommendation to approve.

President Musgrave: Is there anyone here to speak to this, Heritage Park, Phase II? Sir, would you please come forward and state your name and address for the record.

Dave True: Dave True with Landmark Design, 5250 Vogel.

President Musgrave: Did you say Dave True?

Dave True: True.

President Musgrave: Okay, thank you.

Dave True: Just if there were any questions on the plan, that I would be glad to address them.

President Musgrave: Commissioners, are there any questions? I here no questions. Is there a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you, sir.

<b>Evana Automation: Final Plan</b>
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President Musgrave: We now move to Evana Automation, expansion–

Bill Jeffers: Dave, you may wish to stay up here. Dave True also represents Landmark Design and Engineering who submitted this plan on behalf of Evana Automation, 5825 Old Boonville Highway. It's between Green River Road and Burkhardt. It's an expansion of an existing fabrication facility. It's a final plan. The recommendation is for approval of this final drainage plan to allow building permits to go forward for an expansion that was announced in the newspaper over the weekend.

President Musgrave: Is there anyone here to speak to this expansion?

Dave True: Dave True with Landmark Design again. Just if there were any questions on the plan.

President Musgrave: Commissioners? I see no questions. Is there a motion?

Commissioner Crouch: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

<b>Wynnfield Subdivision: Section Two: Drainage Easement</b>
--

President Musgrave: We now move to Wynnfield Sub, section two, plan for drainage easement.

Bill Jeffers: Okay, I placed that plan and narrative on your desk. It applies to Wynnfield, section one also. It's right on the boundary. Section one shows the streets and lots that have been recorded. Section two is still a vacant field to the west, to your left there, labeled Wynnfield, section two. It's right on the boundary, what we're talking about is right on the boundary between those two subdivisions along the west side of section one. The plan provides for piping a previously open ditch through an area that's now occupied by a sanitary sewer pumping station that happens to block the ditch. The pipe will carry the storm water out into a Kansas Road side ditch through a pipe, rather than through the blocked ditch. The design engineers are here in the audience, Mr. Lee McClellan, if you have any questions. The County Surveyor recommends approval of this plan.

President Musgrave: Questions? I see none. Is there a motion?

Commissioner Crouch: Move approval.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Metro Center Indoor Soccer Complex: Modified Final Plan</b>
--

President Musgrave: We move now to Metro Center indoor soccer complex, the modified final plan.

Bill Jeffers: The plan is for Metro Center, section nine. I think it's called, is that lot six now that has been recorded? It's this, it's that lot right there that had been a parcel when the soccer complex was built. The detention basin is in this area. It discharges to Stofleth Ditch right there. Basically, what's happened is it's a recreation facility that's used by youth. If they go from a wet basin to a dry basin they will have more usable grass space during dry season when the soccer youth can go outside and kick the ball around in the dry detention basin, because it's only about three or four feet deep, and it dries out just like a field. It could also be used for sand volleyball court and that type of thing. So, the plan as represented here tonight by Matt Wallace and also by Lee McClellan from Morley and Associates, if you have any other questions. The recommendation from the County Surveyor is for approval of this modified final plan.

Commissioner Nix: I've got one question.

Bill Jeffers: Yes, sir.

Commissioner Nix: Maybe to the developer or the engineer. The dry basin, what will that be planted in? Is that spelled out here, because I haven't seen it anywhere.

Matt Wallace: I guess, for the record, my name is Matt Wallace with Morley and Associates. I was the design engineer for the job. They have seeded it and I'm not exactly sure with what. I mean, you want to know what species of grass?

Commissioner Nix: I was just curious from the standpoint of it flooding, and then vegetation growing in as far as keeping it maintained, because it's actually dry. It would be dry for most of the time, with the exception of the—

Matt Wallace: Yes, it's going to be a grass-lined basin—

Commissioner Nix: Okay.

Matt Wallace: —that will be seeded with a fescue or a —

Commissioner Nix: And it will be maintained, when it's not just—

Matt Wallace: It would be mowed just like the rest of the facility.

Commissioner Nix: Okay.

Bill Jeffers: Our drainage ordinance requires that any dry basin have the same cover as a grass lot and be maintained the same as a grass lot. Just that they use species that can take the temporary periodic flooding.

Commissioner Nix: I didn't know that. So, thank you.

Bill Jeffers: Yes, sir.

President Musgrave: Any other questions? Is there a motion?

Commissioner Crouch: Motion to approve.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Did you have another comment?

Matt Wallace: I just wanted to add that this was, the subdivision that this is now a part of is a part of the plat for Metro Center East, section nine. When this came through originally, it was unplatted ground, and we had performed a parcelization plat to create a 5.6 acre parcel, I believe. This drainage plan was submitted for that. That was the plan that we were asking for the revision on. Once the ground was platted, we had another drainage plan for the remaining area that was undeveloped at that time, so that was the Metro Center, section nine. So, there are actually two plans, and I just wanted to make it clear for the record that the existing plan for Metro Center East, section nine stands as it was, and then this was prior to that. We were asking for this basin only to be revised.

President Musgrave: Okay. Thank you, sir.

Bill Jeffers: That was my mistake and oversight. Matt is correct, the correctly worded recommendation should have been for the modified plan for the parcelization of the soccer complex, rather than section nine.

President Musgrave: Commissioners, do you feel—

Bill Jeffers: If you would rather make the motion again.

Commissioner Crouch: I'll make the motion that it show the correct recommendation as given by the Surveyor.

Bill Jeffers: Thank you.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<p><b>Carpentier Creek Pavilion: Revised Final Plan Corrugated Pipe Under Rosenberger Avenue</b></p>
--

President Musgrave: We move now to Carpentier Creek Pavilion, revised final plan.

Bill Jeffers: Okay, Carpentier Creek Pavilion is the location for the Kohl's, the new Kohl's on the westside will be located right there on that lot. This plan that you're looking at today is a modification of the pipe that brings this creek branch down underneath Rosenberger Avenue, and along side the entrance road, and then into the main channel of Carpentier Creek, which flows down underneath the expressway in this direction. The only modifications that we're talking about is the change from a concrete pipe at this location under Rosenberger to a metal pipe, and an open channel from that point out to the creek channel, rather than a closed pipe. The plan is the same as the street and drainage plan approved by the Commissioners on August 2, 2005, with the recommendation by the County Engineer. The recommendation by the County Surveyor is for the approval of this plan, with the same conditions that the developer must acquire necessary state and federal approvals from the Indiana Department of Natural Resources and from the Corp of Engineers before the local plan, that you have before you tonight, before it's approval becomes effective. They have to go ahead, that's the same recommendation that Mr. Stoll made when he brought the plan to you on August 2<sup>nd</sup>.

President Musgrave: Is there anyone here to address any questions that the Commissioners may have. I see no one. Commissioners?

Commissioner Crouch: Motion to approve.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<p><b>Falcon Ridge: Final Plan</b></p>
--

President Musgrave: We move now to Falcon Ridge, final plan.

Bill Jeffers: The Falcon Ridge Estates, final plan is for Falcon Ridge Subdivision. It's located on Green River Road. If that picture were taken out a little wider, then you would see Boonville-New Harmony Road right here, and I-164 over here. So, it's at the very northern most extreme of Center Township and the southern most boundary of Scott Township. It's a residential subdivision below the Daylight Industrial Park. Their preliminary plan for this subdivision was approved on June 28, 2004. The storm water pollution prevention plan was approved by SWCD on 7/28/2004, one month afterward. The road and street plans came to you with a recommendation for approval from the County Engineer, and you approved them on 6/28/05, June of this year. The final plan that you're looking at does not substantially change anything that was ever shown on the preliminary plan or the road plans. They straightened out one ditch, out in the right-of-way of Green River Road. Mr. Stoll is aware of that minor modification, and the County Surveyor recommends approval of the final plan, as it comes to you, so that the subdivision may be recorded and they can proceed with selling lots.

President Musgrave: Mr. Jeffers, that appears to be slightly at an angle. Is that an error? Or is that how that will sit on the ground?

Brenda Jeffers: That's the way it came in.

Bill Jeffers: That's the way it came—

Brenda Jeffers: When I added it, it came in that way.

President Musgrave: Okay.

Bill Jeffers: That's the way it came from Area Plan Commission. It does, obviously, it needs to be rotated slightly to the northwest so that Green River Road aligns with the right-of-way, and so that that north line aligns with the driveway to the north, which is part of the adjacent property.

President Musgrave: And, you'll touch base with Area Plan to make sure that they're aware that this needs adjustments?

Bill Jeffers: We'll be happy to notify Mr. McReynolds that it needs to be rotated to fit more appropriately on the map, yes, Ma'am.

President Musgrave: Thank you. Are there any questions by the Commissioners? Do I hear a motion?

Commissioner Crouch: Motion to approve.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.



**Hargett Brothers Enterprises LLC: Final Plan**

President Musgrave: We now move to encroachment agreements.

Bill Jeffers: With your indulgence, may I add this Hargett Brothers plan that I neglected to put on your agenda? It's the plan that we were anticipating coming back at the extension of last month's meeting. Two weeks ago we were going to hear this plan. It did not come back, and we did not extend the meeting, and I forgot to put it on today's agenda. Basically, it's the Hargett Brothers property, I do not have—

Brenda Jeffers: Yeah, I've got it.

Bill Jeffers: Oh, we have one? Okay, it's located just south of the Warrick County Co-Op, across from the County Garage at Mill Road and St. Joe Avenue. It's a plan for a commercial project where an existing business burnt down. They've leveled the business, leveled the ground, and now they're preparing to build a new structure. The County Surveyor recommends approval of the plan for Hargett Brothers, as presented to you tonight. Mr. Chris Weil, a registered engineer is here in the audience if there's any questions. It still shows the old plant there, obviously, that plant has burnt down. Hargett Brothers Enterprises LLC carries a recommendation of approval.

Commissioner Crouch: Could I first amend the agenda to include Hargett Brothers? That's a motion.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

Commissioner Crouch: So ordered. I will then move approval of Hargett Brothers, final plan.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Encroachment Agreements**

President Musgrave: Do you have encroachment agreements as well, Mr. Jeffers?

Bill Jeffers: Yes, Ma'am. Madam Chairlady, we have an encroachment agreement from Lucent Plastics located on Lynch Road. They are requesting the relaxation of the right-of-entry for Sonntag Stevens Ditch, a regulated drain in Vanderburgh County. They're requesting the relaxation to 25 feet as measured from the top of the south bank. This is allowed by Indiana Code 36-9-27, section 33. They submit to you an encroachment agreement which your attorney, Mr. Ted Ziemer, has, or your

recording secretary, Madelyn, has the original copy. If everyone would, I don't have much of a copy, but, I'll be happy to give you what I do have.

Madelyn Grayson: I made copies for of the Commissioners.

Bill Jeffers: Oh, you did? Thank you. Basically, what we have here is the county reconstructed Sonntag Stevens as a part of the widening of Lynch Road in 1981. At that time Lucent Plastics, by whatever name, existed at that location, in the same location it exists today. But, by our widening of the ditch, we inadvertently got too close to the building with the ditch bank. The statute allows us to relax down to 25 feet. However, one corner, if you'll look at your exhibit, one small corner of the building gets within 22 feet of the top of the bank. That same statute, 36-9-27, section 33, allows for the placement of a permanent structure within the 25 foot relaxed right-of-entry, so long as that structure, that establishment of that structure is with the written permission of the Drainage Board. So, the attorney for Lucent Plastics, who here tonight is Mr. Rheinlander, Bob Rheinlander, submits a document that has a clause in it that, well, Mr. Ziemer can read that clause. It's the very last paragraph in the agreement.

President Musgrave: (Inaudible).

Bill Jeffers: I think he has read that, and approved of it, I hope.

President Musgrave: Mr. Rheinlander, do you have remarks that you care to—

Bill Jeffers: Anyway, I lost my train of thought, but, basically, this is so that the ownership, when the ownership changes very shortly, the chain of title will be clean. We have allowed this to happen with written permission.

Bob Rheinlander: Yes, I believe Mr. Jeffers is referring to the covenant that runs with the land. So, whatever is done today will go on in perpetuity. I'm here to answer any questions you may have. The encroachment has to do with the building that existed before we came. As Mr. Jeffers indicated, they moved the ditch, we didn't move the building. So, it's a small encroachment, as revealed on the drawing there. We would ask for approval of the encroachment agreement, as well as the relaxation of the right-of-entry for the rest of the ditch. For Sonntag Stevens as well as Stevens Ditch.

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries.

Bob Rheinlander: Thank you very much.

President Musgrave: Thank you, sir.

Bill Jeffers: Thank you. I think that brings us to....oh, they also, Ted, they also faxed over a copy of the insurance policy that covers the county for up to two million dollars as per the agreement.

Madelyn Grayson: Can I have that for the record?

Bill Jeffers: Yes, Ma'am.

**Public Comment**

President Musgrave: We are at the public comment portion of our agenda. Is there a member of the public here to comment? I see no one approaching the microphone. Mr. Nix? Mr. Ziemer?

**Resolution Concerning Storm Water Runoff in the  
Town of Darmstadt**

Ted C. Ziemer, Jr.: Yes, there is one other item of business—

President Musgrave: Yes, the Darmstadt—

Ted C. Ziemer, Jr.: —that is the Darmstadt, Town of Darmstadt adoption of the Vanderburgh County storm water runoff policy. When I discussed this with the president of the town board and then with their attorney, they were concerned that, yeah, they wanted Vanderburgh County to do this and were happy to do it, but they wanted to make sure that Vanderburgh County would in fact administer the policy for them if they adopted the resolution. So, what I have prepared is a resolution that is contingent upon their adoption of their resolution, which won't happen until next Tuesday. When they do that, should you choose to adopt this, your resolution today would indicate that after they adopt it, you will provide the service indicated.

President Musgrave: Questions? Comments? Is there a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Thank you for your work on that, Mr. Ziemer.

**Ditch Maintenance Claims**

President Musgrave: We move now to the claims. Mr. Jeffers?

Bill Jeffers: All the claims, I believe, are from the same vendor, Mr. Terry Johnson Mowing Service, and they pertain to finished work on various regulated drains on the east side of the county where we mow the weeds, especially in residential areas. The finished work has been inspected, and the County Surveyor recommends payment to the contractor in accordance with the claims presented to you at this time.

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: That motion carries. There being no other business to be brought before this board, can I have a motion to adjourn?

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

(The meeting was adjourned at 5:00 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Ted C. Ziemer, Jr.  
Dave True  
Others Unidentified

Bill Nix  
Bill Jeffers  
Matt Wallace  
Members of Media

Suzanne Crouch  
Madelyn Grayson  
Bob Rheinlander

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
SEPTEMBER 27, 2005**

The Vanderburgh County Drainage Board met in session this 27<sup>th</sup> day of September, 2005 at 4:19 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the September 27<sup>th</sup> meeting of the Drainage Board. This one will be in 2005, as opposed to our last meeting.

**Approval of August 23, 2005 Drainage Board Meeting Minutes**

President Musgrave: Do I have a motion to approve the minutes of the previous meeting?

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Creekside Meadows: Amended Final Drainage Plan**

President Musgrave: We move now to the drainage plans. Mr. Jeffers, do you have Creekside Meadows amended drainage plan?

Bill Jeffers: Creekside Meadows is north of Earle, Indiana, on Petersburg Road. This is the same final drainage plan that you approved a couple of months ago, but it has some modifications to allow a more practical grading of the lots around the northern and west, northern and eastern periphery of the project, for more effective use of some fill dirt. Everything is fine. Everything is in accordance with the drainage code. The County Surveyor recommends approval. Glen Meritt from Morley and Associates is the engineer representing the plan, if you have any questions.

President Musgrave: But there have been no substantial changes about the use of the property?

Bill Jeffers: No, Ma'am.

President Musgrave: Okay. Do I hear a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: That motion carries.

**William S. Hirsch Subdivision: Section Two: Final Plan**

President Musgrave: We move to the William S. Hirsch Subdivision, Section Two.

Bill Jeffers: William Hirsch Subdivision, Section Two is located on the east side of Burkhardt, north of Columbia Street, south of Oak Grove Road. James E. Morley is the engineer representing the plan. Don Fuchs is representing the developer, Mr. Hirsch, or the Hirsch Trust. This is a final drainage plan. It contains details for the commercial site development. It meets with the drainage code regulations. There are a few little minor items that we'd talked about in conference, and will be shown on the final street plans that Mr. Stoll brings to you. Nothing significant, just some little dots and jittles. The County Surveyor recommends approval of the plan in front of you.

Commissioner Nix: This area south and west is the area we carved out here some time back? Is that correct?

Bill Jeffers: That is William S. Hirsch, Section One. It's about four acres that is rumored to be possibly a lending institution.

Commissioner Nix: And that was what—

Bill Jeffers: It's all integral with...the drainage plan is fairly integral with this plan that's been approved.

Commissioner Nix: Okay.

President Musgrave: We don't have any changes from any rezoning that might have taken place in the past?

Bill Jeffers: Not that I'm aware of.

President Musgrave: Okay.

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: That motion carries.

**Carpentier Creek Pavilion: Modified Final Plan**

President Musgrave: We move now to the Carpentier Creek Pavilion.

Bill Jeffers: As you are aware, the work on Carpentier Creek Pavilion is moving ahead. This plan simply represents some modifications that have to be made because they discovered a sewer line, or a water line that interfered with the previously approved plan. This set of plans shows corrections for those items that they discovered in the field in the last several days. The County Surveyor recommends approval of this modified plan.

Commissioner Nix: This water line was done in conjunction with the bridge work that's being put in?

Bill Jeffers: That's correct.

Commissioner Nix: Or was going to be done at the same time.

Bill Jeffers: That's correct.

Commissioner Nix: Okay. This compensates or makes up for that, I guess?

Bill Jeffers: I think they had to lower the flow line—

Commissioner Nix: The elevation, right.

Bill Jeffers: —or raise the flow line or something. But, they've also beefed up the rip rap cover over that water line.

Commissioner Nix: Okay.

Bill Jeffers: And they've beefed up the erosion control.

President Musgrave: Any questions?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: That motion carries.

<b>Caymen Ridge Subdivision: Section One: Modified Final Plan</b>
---

President Musgrave: Caymen Ridge Subdivision, Section One, a final plan.

Bill Jeffers: Caymen Ridge is located north of Kansas Road, west of Highway 57 in the lower McCutchanville area. Mr. Bob Hatfield is the developer. He's here if you have any questions of him. Glen Meritt designed this modified plan. Basically, it was an open ditch between two rows of homes, and they would like to place concrete pipe in that ditch at this time, so that the homeowners have more use of their backyard and the storm water is controlled in a more orderly fashion. On my notes I had plastic pipe, but in the last week they've changed the detail to concrete pipe.

Commissioner Nix: Very good.

President Musgrave: Are there any questions?

Bill Jeffers: The County Surveyor recommends approval.

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: That motion carries.

<b>Q-Comm Parcel "Lot 7": Heritage Park: Phase Two: Alternate Final Plan</b>
--

President Musgrave: We now move to, is that Q-Comm? Parcel, lot seven, Heritage Park, Phase Two, the alternate, final plan.

Bill Jeffers: Q-Comm is what's, I guess, a nickname for Cinergy Communication. It's got a satellite farm and operations building out there in Heritage Park, Phase Two. This alternate plan allows, or will allow Q-Comm to drain into the detention basin that was recently approved for Heritage Park, Section Two. So, now they have two options. They have the previous option that you approved several months ago where they can drain out to Lynch Road. Or, they can use this option, which will save them some dirt moving and there's a more efficient use of the dirt fill at the site if we go, if they go with this one. Either plan will work. Justin Shofstall designed this plan. He's with Andy Easley Engineering. He's in the audience here representing the plan. The County Surveyor has reviewed the plan and found that it comports with the drainage code and recommends approval.

Commissioner Nix: So, Mr. Jeffers, is this a change? You had mentioned that—

Bill Jeffers: We would like to present it as option two.

Commissioner Nix: Okay, and then will we give the developer the option to use one or two? Or are we saying he will use two?

Bill Jeffers: Yes. Then the drainage code requires that they give us an as-built showing us which one they used.

Commissioner Nix: So, they have the option to use either one then?

Bill Jeffers: They can use one or the other.

Commissioner Nix: Okay. Okay.

Bill Jeffers: The reason for this is if the developer for Heritage Park, Section Two completes the detention basin in a way that coordinates with their ability to use this alternate two, they would choose to use alternate two.



Commissioner Nix: It gives them some options.

Bill Jeffers: Right, it gives them some options—

Commissioner Nix: Some development options.

Bill Jeffers: — to save dirt fill.

Commissioner Nix: Can you point out in both of these, because it's been awhile since we looked at these?

Bill Jeffers: Point out?

Commissioner Nix: The detention basins.

Bill Jeffers: The detention basin—

Commissioner Nix: I see one on the south there right along—

Bill Jeffers: Right, it's all along the—

Commissioner Nix: Is that (Inaudible)?

Bill Jeffers: Right.

Commissioner Crouch: Where's your red thing?

Bill Jeffers: My red thing? I don't have my red thing.

Commissioner Nix: This is one here.

President Musgrave: Do you want to come up and point it out on these maps?

Commissioner Nix: Just show us on here. That would be fine.

Bill Jeffers: This is the detention basin.

Commissioner Nix: This is option two?

Bill Jeffers: This is option two—

Commissioner Nix: Okay.

Bill Jeffers: —before the entire subdivision—

Commissioner Nix: Gotcha.

Bill Jeffers: —you've already approved that.

Commissioner Nix: Uh-huh.

Bill Jeffers: And it's pretty much in place. Then they have to complete this channel that comes out here.

Commissioner Nix: Okay, that goes to—

President Musgrave: The ditch.

Bill Jeffers: So, option two that I'm asking you to approve for Q-Comm tonight would allow them to drain this southern half of the area into this basin—

Commissioner Nix: Okay.

Bill Jeffers: —when the basin's ready to accept it. Option one drains everything down here to this corner.

President Musgrave: So, it would drain here and then there?

Bill Jeffers: Yes, Ma'am.

President Musgrave: Okay.

Bill Jeffers: And that would save them having to build this up and tilt it towards the front.

Commissioner Nix: I just wanted to make sure I was clear on that.

President Musgrave: Are there any other questions? Do I hear a motion?

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: That motion carries.

<p><b>QTR: Lot 4 and part of Lot 5: St. Joe Industrial Park: Preliminary Plan</b></p>
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President Musgrave: We now move, does that say quarter lot four and part of lot five, St. Joe Industrial Park? Preliminary drainage plan.

Bill Jeffers: Yes, Ma'am. Okay, what we have here is QTR. That's the name of the—

President Musgrave: Oh, QTR, not quarter?

Bill Jeffers: Well, it does, I don't know what QTR stands for—

President Musgrave: Alright.

Bill Jeffers: —but, it's not, I don't think it's quarter. Anyway, it takes up lot four and part of lot five in St. Joe Industrial Park. It's a preliminary plan. It's just an industrial site out there behind the plumbers union on North St. Joe Avenue along Locust Creek. The plan was prepared by Justin Shofstall who's here from Andy Easley and

Associates, or Andy Easley Engineering, to answer any questions you may have. Typical preliminary plan for an industrial site on the north side. The County Surveyor has reviewed it, and finds it comports with the drainage code and recommends approval.

President Musgrave: Are there any questions? Go ahead.

Commissioner Nix: Move approval.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: That motion carries. So, QTR, lot four and part of lot five is approved.

### **Encroachment Agreements**

President Musgrave: The next item on our agenda is encroachment agreements. There are none submitted as of noon. Were there any submitted afterwards?

Bill Jeffers: No, Ma'am.

### **Other Persons Wishing to Address the Board**

President Musgrave: Other persons wishing to address the board today. I see one. No? I see one. Yes, sir, please come forward.

Bill Jeffers: Okay, I'm going to bring a plan to you—

President Musgrave: He just left.

Bill Jeffers: It has to be. It's in the flood plain, so, it has to be two feet above grade. Probably about 385 (Inaudible), something like that.

President Musgrave: You are bringing us a plan for?

Bill Jeffers: Okay, AC Warehousing at 2200 East Lynch Road. The designer is Reggie Heck, an engineer here in the audience to answer any questions. Basically, he, AC Warehousing is asking the board's permission to connect a new, private drain to Sonntag Stevens, which is a regulated drain in Vanderburgh County. The code requires that new, private drains connecting to an existing regulated drain must have your permission. The plan shows, this is in the city is why we're not approving a drainage plan. We're simply approving the connection of the drainage plan to your regulated drain, Sonntag Stevens. However, the City Engineer has approved the plan, or will after this. It goes to the Board of Works after this. I've looked at the connecting pipe. It conforms with our specifications for bearing a pipe inside the regulated drain. I recommend that you grant written permission, in the form of the minutes, a copy of the minutes, to Mr. Heck, showing that the Drainage Board has granted permission for the connection of this drain to Sonntag Stevens.

President Musgrave: Any questions? Do I hear a motion?

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: That motion carries. Are there persons that wish to address the board? Or does that take care of that matter?

<b>Other Business</b>
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President Musgrave: I have other business, and it says to move the proposed amendment regarding mandril testing plastic pipe to public hearing. I believe we just did that in the Commission meeting.

Bill Jeffers: You did that in the Commission meeting.

<b>Ditch Maintenance Claims</b>
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President Musgrave: So, do you have any claims?

Bill Jeffers: Yes, Ma'am.

President Musgrave: Alright. Do you need to say anything about the claims?

Bill Jeffers: Those are two maintenance claims for the normal annual maintenance of Eastside Urban South half drain, and Eastside Urban North half drain. They have been completed, inspected, everything is in accordance with the contracts that were signed by you earlier in the year. The County Surveyor recommends payment of those claims.

President Musgrave: Any questions? Is there a motion?

Commissioner Nix: So moved.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: Do I have a motion to adjourn?

Commissioner Nix: I make that motion.

Commissioner Crouch: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: We are adjourned.

(The meeting was adjourned at 4:35 p.m.)

**Those in Attendance:**

Cheryl Musgrave	Suzanne Crouch	Bill Nix
Bill Jeffers	Ted C. Ziemer, Jr.	Madelyn Grayson
Others Unidentified	Members of Media	

**VANDEBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl Musgrave, President**

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**Bill Nix, Vice President**

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**Suzanne Crouch, Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
OCTOBER 25, 2005**

The Vanderburgh County Drainage Board met in session this 25<sup>th</sup> day of October, 2005 at 4:20 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Alright, call to order the Drainage Board meeting of October 25, 2005. I have an agenda which I will share with you.

**Approval of September 27, 2005 Drainage Board Meeting Minutes**

President Musgrave: We need to approve the minutes of the previous meeting, which date I do not have. Mr. Jeffers, do you recall the date of our previous meeting?

Madelyn Grayson: It was September 27<sup>th</sup>.

President Musgrave: September 27<sup>th</sup>.

Commissioner Nix: So moved.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

**Snyder Investments: Final Drainage Plan**

President Musgrave: We move now to Snyder Investments, final plan.

Bill Jeffers: Snyder Investments is located on Boonville-New Harmony Road between State Road 57 and Green River Road. It's immediately east of Daylight Farm Supply. It's a single parcel, stands alone. The plan was designed by a professional engineer, Chris Weil, who's stamp appears on the plan. Mr. Weil is sitting here in the audience if there is any questions regarding the plan. The County Surveyor reviewed the plan and recommends approval of the final drainage plan for Snyder Investments.

President Musgrave: Are there any questions?

Commissioner Nix: This proposed building, do we know what that's going to be here? Is that a secret?

Chris Weil: The building?

Commissioner Nix: Yes.

Chris Weil: I'm Chris Weil. I represent Hinderliter. I think they are going to store some erosion control mat, I think it's somehow tied in with Daylight Farm Supply.

Commissioner Nix: Just curious. Move approval.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Rexam Closures: Final Drainage Plan</b>
--

President Musgrave: We move now to the final plan for Rexam Closures.

Bill Jeffers: Rexam Closures is located on Kansas Road just south of the intersection of Kansas and State Road 57. It used to be known as Sunbeam Plastics. It's been in operation for a couple of decades, I believe. There's a large lake out in front of the plant, into which most of the drainage currently flows from the building, in this area here. Then that discharges into a little branch of Furlich Creek right here and joins up with the rest of Furlich Creek on down the way. They're going to add a small addition to the building at the south end here, and a small area of parking. Most of the water from that addition will also be carried into the existing lake. It was, you have the plan in front of you, I believe it was stamped by David Stallings, is that correct?

Commissioner Nix: That's correct.

Bill Jeffers: A civil engineer, usually would be represented by David True, he's been before you many times, however, he was unable to make the meeting this afternoon. I assured him that there would be very few questions about this small expansion of an existing industry. The County Surveyor has reviewed the plan and recommends approval.

Commissioner Nix: I guess, one question I do have, why is this coming in front of us today?

Bill Jeffers: Because it established 10,000 square feet of new, hard surface.

Commissioner Nix: Thank you.

Bill Jeffers: This area down here is grass, and so when you add that little piece of a building and a little bit of parking, it came up just over 10,000 square feet, it requires review.

Commissioner Nix: Thank you. Okay. Move approval.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Mystic Creek Subdivision: Final Drainage Plan</b>
--

President Musgrave: We move now to Mystic Creek Subdivision, final plan.

Bill Jeffers: I believe the County Commissioners just acted on this very same plan, in case you don't want to unroll it. It's the commercial subdivision for which you approved the street plans in your earlier meeting.

Commissioner Nix: Okay.

Bill Jeffers: Basically, the drainage plan simply shows you the same layout, sizing of the pipes. Detention will be in the parking lots, and it will be controlled there before it's discharged into a little branch of Pigeon Creek that then flows down through the apartments and off into Pigeon Creek under Spring Valley Road. As I said, the street plans have been approved, with the recommendation from your County Engineer. The County Surveyor has reviewed those drainage plans. A representative from Easley and Associates, Justin Shofstall, is here in the audience if you do have questions. The County Surveyor's recommendation is to approve the plan. This is a final drainage plan.

Commissioner Nix: So moved.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

President Musgrave: That carries.

<b>Petition to Remove Obstruction: Steven Schnaus: Gayne Street</b>
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President Musgrave: We move to other business, receive petition to remove obstruction.

Bill Jeffers: I believe your recording secretary has the petition that was submitted to the Commissioners office as the Drainage Board, and does it have a hundred dollar check attached—

Madelyn Grayson: Yes.

Bill Jeffers: —for the fee?

President Musgrave: The obstruction is here?

Commissioner Nix: Is this a drive?

Bill Jeffers: Drive pipes, etcetera. I'm not too familiar with this particular petition, except to note that Steven Schnaus is the petitioner, living at 4109 Gayne Avenue, Evansville, Indiana, 47712, alleging that there are obstructions existing on property owned by what the statutes calls the remonstrators, no, the respondents, excuse me. It appears that that may be Wayne and Janet McCaslin, Bruce Darden, at the addresses given. Somewhere there should be a description of, oh, here it is, the obstruction consists of the following materials; trees, weeds, dirt, plugged pipes, and other debris. I believe it's back in an alley, from looking at the GIS photograph that I did in the office. I don't have it here with me. You have some photographs of the alleged obstruction attached to the petition.

Madelyn Grayson: The GIS document is up here as well.



Bill Jeffers: Oh, okay. It looked like it might be some driveway pipes entering off the alley, and some trees and other things associated with a ditch that is not within the alley easement, it's on private property. That's why it comes to you as a petition. I've put in front of you the statute that governs this process, 36-9-27.4. I'm going to say from preliminarily looking at it, the obstruction is in a drain. A drain is defined as a watercourse established with the mutual consent of those property owners across whose property the drain runs. This is a common drain. It's not a creek or a watercourse. Obstructions are defined as conditions that exist within a drain that prevents or significantly impedes the flow of water through the drain. I'm only going through this because I believe this is the first time that the new Commissioners have dealt with this.

Commissioner Nix: Thank you. I appreciate that, because I was going to ask the questions.

Bill Jeffers: Right, and here, and I'm not going to read everything on this ten page document, just the highlighted portions that will brief you, then you can read the rest of it at your leisure.

President Musgrave: Just so that I understand it clearly, do, the petitioners, obviously, don't own the land where the obstruction is occurring?

Bill Jeffers: Right, and what they've done is they've requested the owners of that land to remove the obstructions and given them a reasonable time to initiate the process, and apparently they have not initiated the process, so, they then have the right to come before the Drainage Board, according to this statute, and ask that you have a hearing, and, hopefully, order the removal.

President Musgrave: Were they notified, the owners of the land notified of today's hearing?

Bill Jeffers: We suggest, no, this isn't a hearing today.

President Musgrave: Okay.

Bill Jeffers: We suggest that, the law only says that they have to request, but we suggest they request, in writing, return receipt requested by mail. We provide a form on line, you know, as a suggested format for them to follow. Mr. Steven Schnaus did follow that format. He used our blank form. Let's see, a respondent is the owner of the tract that is subject to the petition seeking the removal. So, we've named the respondents here, according to the petition. The petitioner is basically alleging that upon request the respondents did not remove the obstruction, so, now he's seeking that removal through this process. The contents of the petition are in front of you. A previous board, in the 90's, around '95 or '96, when this statute first took effect, decided that as a condition of filing the petition, the payment of a filing fee was required of \$100 to cover the cost of the hearing, and also to discourage frivolous filings. Because there were several frivolous filings in the first year that this statute took effect. We haven't had any frivolous filings since the filing fee was instituted. Upon receiving, this is on page three of seven, upon receiving this petition, the County Surveyor shall promptly investigate whether the obstruction exists. So, now I must promptly investigate the site and report back to you. Upon receiving that report, which I intend to bring to you at the next Drainage Board meeting—

Madelyn Grayson: That's November 22<sup>nd</sup>.

Bill Jeffers: –November 22, 2005, there will be a written report, including what I found in the field. Upon receiving that report, the Drainage Board must set a hearing date, and serve notice of that hearing to each owner of the land on which the obstruction appears to exist. Those owners are those who can be identified from records in the County Recorder's office. Now, an owner is defined as a person who holds possessory legal interest in the land. So, we can determine that from tax records, etcetera. We must notify them that you're having the hearing. The hearing must be held at least 30 days, but not less than 90 days, excuse me, must be held at least 30 days, but less than 90 days after the date of receiving, or the filing of the petition. So, that's today. I have here somewhere a schedule of the next 90 days, if you'll bear with me, so that you may set a hearing date. You don't have to set that hearing date until next month when you receive your report.

Commissioner Nix: If we get to that you'll remind us, right?

Bill Jeffers: But, just to notify you ahead of time, the petition is received today, October 25<sup>th</sup>, the next Drainage Board meeting is November 23<sup>rd</sup>, which is less than 30 days from today, so, you can't hold the hearing on November 24<sup>th</sup>, or 23<sup>rd</sup>. The following Drainage Board meeting is scheduled for December 27<sup>th</sup>, unless cancelled by the County Commissioners, because it's the day after Christmas, two days after Christmas. The County Surveyor will be out of town on December 27<sup>th</sup>, your board may hold it's hearing on December 27<sup>th</sup> and make a finding and a determination without the County Surveyor present, since you will have the report submitted, but that would be at your discretion. The first available regular Drainage Board meeting would be held on January 24<sup>th</sup>, if the County Commissioners continue to schedule Drainage Board meetings on the fourth Tuesday of each month in 2006. But, that's 91 days past today, so, that would be one day too long.

President Musgrave: Why don't we just hold it on the 20<sup>th</sup> of December.

Bill Jeffers: Yes, I've listed several days there between now and the 90<sup>th</sup> day, and you may pick one of those if you wish.

President Musgrave: Alright.

Commissioner Nix: Mr. Jeffers, before we go any farther, I'm just curious, and I don't know if this would be out of line at all, has anyone just went out and knocked on the door and said, you've got a problem? I mean, or is that something that you're not at liberty to do?

President Musgrave: You may not be able to see the petitioners behind you who may want to address this.

Bill Jeffers: Oh, the petitioners may wish to address this.

President Musgrave: Oh, it's not you? Oh, okay, I'm sorry.

Ann Farney: We've got about the same thing coming up.

Commissioner Nix: Is that, just to kind of cut to the quick.

Bill Jeffers: Okay.

Commissioner Nix: Would that be out of line to ask?

Bill Jeffers: For me to go knock on a door, or for someone from the county to go knock on someone's door and say you've got a problem here?

Commissioner Nix: I know this is a private—

Bill Jeffers: It's all private property.

Commissioner Nix: I understand that, but I didn't know—

Bill Jeffers: So, you need a warrant to go on to private property. The way I read this statute, you can—

Commissioner Nix: How about a—

Bill Jeffers: A phone call?

Commissioner Nix: Yeah. I'm just—

Bill Jeffers: Who's responsibility is it? In other words, what this basically is, this is a civil action, in other words before 1994 when this code took effect, or 1996, whenever it was, they would have to go to small claims court, Superior Court, okay?

Commissioner Nix: Right.

Bill Jeffers: Some legislators got together and decided, well, let's turn the Drainage Board into Solomon, and let them be small claims court since our courts system is overburdened. The County Surveyor at no point ever had jurisdiction here, nor did the Drainage Board until this statute took effect.

Commissioner Nix: I understand. But, I guess, my question is, I know that common sense doesn't always prevail—

Bill Jeffers: Right.

Commissioner Nix: —but it just seems like maybe just a phone call might get this off dead center and we won't have to go through all this. And they won't have to go through all of this. I might be dead wrong. I don't know. I know that's—

Bill Jeffers: Right, right, a phone call would, might do it. I doubt it, but it might.

President Musgrave: Mr. Jeffers, if we set the date for the hearing, and suggested and worded the notices to be sent, would you be agreeable to making those phone calls and seeing if it could be worked out in advance of the hearings, so that we could cancel said hearing?

Bill Jeffers: I'm hesitant to set a precedent where I have to start making phone calls to every little drainage problem in the county, because someone alleges that there's a problem, and, therefore, the County Surveyor should start making phone calls to private citizens saying, hey, you've got a problem, and if you don't do something about it, we're going to have a hearing. I mean, do you all have a script I could read when I call?

Commissioner Nix: No, I understand what you're saying, but, I guess, I'm just saying that sometimes people don't, they don't really understand what they're going to have to go through, or they don't understand the process, and maybe you're not the one that would call. Maybe it's...I don't know.

President Musgrave: It wouldn't be one of us.

Commissioner Nix: You started to say something, Mr. Ziemer.

Ted C. Ziemer, Jr.: Well, you know, the County Attorney would be glad to make the call. You would have to, you know, give me the information I need. What I was going to suggest though is, you say you don't want to call somebody just based on an allegation by a private party that there's a problem, right? You don't know that it's there.

Bill Jeffers: Well, today it sounds reasonable. In other words, here we have Mr. Schauss, or Schnaus saying that he indeed has a problem. He's gone to his neighbor and asked his neighbors to fix the problem and they told him to go fly a kite. So, the law allows him to come up here and have a hearing. I believe Mr. Schnaus has a problem, and I believe he's gone to his neighbors, and it sounds reasonable for me to call his neighbors and say, look we're going to go through a long, drawn out hearing, it's going to take 90 days, and then the Drainage Board is probably going to rule that you have to remove that at your expense, blah, blah, blah. That seems fine today, but if it leads to a process where the County Surveyor has to call every person who a neighbor points a finger at from now until eternity, I don't want to get involved in that.

Ted C. Ziemer, Jr.: How often does this happen?

Bill Jeffers: We get, we used to get one of these a month. Now, we're getting two or three a year, but if the word gets out there that all you have to do is threaten one of these and the County Surveyor will go calling your neighbors.

President Musgrave: No, this says—

Bill Jeffers: What position does that put me in?

President Musgrave: —if a petition is filed, and please look at page three of seven, IC36-9-27.4-12, investigation by County Surveyor; duties of drainage board after receiving report of obstruction. If what I understand from you, we have received a report of an obstruction, along with the \$100 filing fee?

Bill Jeffers: Yes, Ma'am.

President Musgrave: Alright. If a petition filed under this chapter alleges the obstruction of, and you highlighted "a drain", the County Surveyor of the county in which the obstruction is alleged to exist shall promptly investigate whether the obstruction exists.

Bill Jeffers: Correct.

President Musgrave: Did you?

Bill Jeffers: You just received it. I will be investigating it promptly.

President Musgrave: And your investigation could include phone calls, site visits, fly overs, whatever it is that you choose to do.

Bill Jeffers: It will be a site visit. I will drive to the site and walk across this private property. Because, in my opinion, as a conservative who believes in private property rights, this process establishes that petition as my warrant to enter on to private property, over which I have no jurisdiction otherwise, to make an investigation. Because if you'll continue to follow along in the information I've given you, I must stay within 75 feet of the drain in which an obstruction is alleged. So, I'm assuming that the legislators and their legal counsel considers that petition to be my warrant to enter private property.

President Musgrave: I don't know. I'm not a lawyer, can't tell you.

Bill Jeffers: Nor am I.

Ted C. Ziemer, Jr.: This is the first time I've looked at this statute. I wouldn't make an opinion on that tonight.

Bill Jeffers: Right.

President Musgrave: Well—

Bill Jeffers: I mean, I do have, okay, the County Surveyor has the power to trespass along a section line. Now, no officer of the government, I think, has any power to just willy nilly trespass all over someone's property. The statute gives me the right to walk along a section line and discover section corners. In this case, I think it allows me to walk within 75 feet of a drain in which the petition alleges there is an obstruction. But, without filing this petition, I don't think I have the right to go on that property. I don't think I have the jurisdiction to go on private property that doesn't involve my regular duties. Do you see what I'm saying?

Commissioner Nix: Yes, I do.

Bill Jeffers: I believe if I just went out anytime and did this when someone calls that they could probably call the Sheriff and tell him—

Ted C. Ziemer, Jr.: What's the next step after the hearing? Say the hearing is held and the Drainage Board finds there is an obstruction, they order it removed?

Bill Jeffers: If the removal of the obstruction will promote better drainage of the petitioner's land, and not cause unreasonable damage to the land of the respondent, the Drainage Board shall find for the petitioner.

Ted C. Ziemer, Jr.: And then?

Bill Jeffers: Then the Drainage Board must make a determination as to whether the obstruction was created intentionally.

Ted C. Ziemer, Jr.: Let's assume that it was not.

Bill Jeffers: If it was not created intentionally?

Ted C. Ziemer, Jr.: Yeah, what I'm trying to get to is what, how do we enforce this? You have a hearing, and you say, yes, there's an obstruction, and maybe you find that it was not done intentionally.

Bill Jeffers: If it was not done intentionally—

Ted C. Ziemer, Jr.: I just haven't had a chance to read it. I guess, the only thing the Commissioners seem to me to be saying is, after you have determined that there is an obstruction—

Bill Jeffers: Yes.

Ted C. Ziemer, Jr.: —so that we know it's not a frivolous claim by some neighbor trying to spite their other neighbor, then might be an appropriate time to make a phone call and say, hey, you're going to either have to clear that obstruction, or we're going to have a hearing and this is going to be what the consequences are. I apologize, I didn't know this was coming up today—

Bill Jeffers: Okay.

Ted C. Ziemer, Jr.: —and I didn't have the statute to review, and I will be happy to review it—

Bill Jeffers: Sure. I understand that, and I knew that this may come up, so that's why I've provided you with a copy of the statute. If, see it's been my experience over the years that whenever the County Surveyor has been asked to get too involved outside of the process, I mean, in other words, I don't agree with this statute all that much to begin with. I don't think it's written very well all that much to begin with. But, here it is, I'm sworn to uphold the law.

Commissioner Nix: It's law, right.

Bill Jeffers: Right. So, I have to uphold the law. Now, I've tried to be a mediator before, during and after these things, and it's always failed. Don't want to go into any great detail, but it's never worked out. You've got two people that don't like each other, they're neighbors, and this is usually a neighborhood squabble that you're asked to rule on. Obviously, someone doesn't want to take it to court, so, they decided to impose upon the Drainage Board with this statute. Okay, several of these things, when I tried to mediate them, it just, it didn't work out. So, what I've done is take the most conservative approach and said, it says right here the Drainage Board must make the determination, not the Surveyor. I've left it up to the Drainage Board to make these determinations and findings. I've really interpreted this along the slimmest of lines. I'll file a report—

Ted C. Ziemer, Jr.: But, you're going to make a recommendation.

Bill Jeffers: No, I'm not.

Ted C. Ziemer, Jr.: You won't?

Bill Jeffers: I have never, I have not made a recommendation on this in years.

Ted C. Ziemer, Jr.: Well, pardon me, how do we know, you're going to go out and do a field survey—

Bill Jeffers: I will file a report with you.

Ted C. Ziemer, Jr.: Okay, well, okay, and you're going to tell us there's an obstruction or there isn't.

Bill Jeffers: I'm going to tell you what's there.

Commissioner Nix: And then we would have to determine whether—

Bill Jeffers: Actually, if I want to be bullheaded about it, you have to determine whether or not there's an obstruction. I want you to read this. That's why I've given it to you, because I've been put in some pretty strange situations over the years with this. I don't want to get this, I really don't want to, you know, go too far with this, but I've really been put in some strange situations with this statute. It does not say I have to tell you whether, I mean, I've been at loggerheads with one of the lawyers over this. It does not say that I have to say that there's an obstruction.

Commissioner Nix: But, ultimately, if we go through this whole process—

Bill Jeffers: These generally go to court after they've been here anyway. Then I'm the one, not you guys, I'm the one that ends up over there in court testifying and being made a fool of by the respondent's lawyer.

President Musgrave: Would you like to set this under advisement and come back next week, have a Drainage Board meeting next week and settle this?

Ted C. Ziemer, Jr.: Well, as a matter of fact, he has to go out and do his field work. Why don't we, we're not setting a hearing date, why don't we let him, and in the meantime, I will review this and report back to you.

Commissioner Nix: Would it be in order to go ahead and accept the petition then? I mean, to get the process going?

Bill Jeffers: I was going to bring that up. If you don't accept this petition, I don't have to make an investigation. The way I read the law.

President Musgrave: Do you want to set the hearing date for the 20<sup>th</sup>. The statute also says we can move it if we need to.

Commissioner Nix: That's my motion.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

Bill Jeffers: When do you want that report? I'm sorry, I missed that.

Commissioner Nix: What would work with you?

Bill Jeffers: I mean, I didn't know if you wanted to have another meeting before that date.

Commissioner Nix: I don't think we need to. I think we just need to wait.

Bill Jeffers: And you're going to have a hearing on what day?

President Musgrave: The 20<sup>th</sup>, December 20<sup>th</sup>.

Commissioner Nix: That will be a normal meeting.

President Musgrave: Well, not normal, we're going to move the December 27<sup>th</sup> meeting up—

Commissioner Nix: To the 20<sup>th</sup>?

President Musgrave: —to the 20<sup>th</sup>. If we need to readvertise that, do we need a motion to do that?

Madelyn Grayson: I'll advertise that we're going to have a meeting during the normal Drainage Board meeting on December 20<sup>th</sup>, and I'll need a list of the property owners to notify them of that. But, he's going to make the report at the next Drainage Board meeting, correct?

President Musgrave: Yes.

Madelyn Grayson: Okay.

Bill Jeffers: I'll have a report on the 20<sup>th</sup>. A full report.

President Musgrave: A report at the next Drainage Board meeting, the hearing in this matter would be the 20<sup>th</sup> of December.

Bill Jeffers: I'll have a report—

Commissioner Nix: Does that fit within our time line?

President Musgrave: Yes, it does.

Bill Jeffers: In November, at your next Drainage Board meeting.

President Musgrave: Right.

Commissioner Nix: Thank you, Mr. Jeffers.

Bill Jeffers: In between now and then, if anyone would like to have an individual discussion with me on this statute—

Ted C. Ziemer, Jr.: I would, and I will plan to do that.

Bill Jeffers: Okay, give me a call, and I'll chalk in some time. But, believe me—

Commissioner Nix: You'd better pack your lunch too on that.

President Musgrave: You'd better involve food in that one.

Bill Jeffers: Well, this is a tangled web, and—

Commissioner Nix: Oh, I understand.



Bill Jeffers: – you will run into it more than once over the next four years.

President Musgrave: So that we don't need to involve food in this meeting, are there more petitions to remove obstruction? Or was that the only one? I see a hand being raised in the back there. Are you aware of this petition, Mr. Jeffers?

Ann Farney: We are the petitioners.

President Musgrave: You must come to the microphone and identify yourselves and your address.

Ann Farney: Now, this is a different one than the one that he is discussing.

President Musgrave: We will not capture your voice for all eternity unless you come up.

Ann Farney: I am Ann Farney, and this is my husband, Charlie, and we live at 16500 Korff Road in northern Vanderburgh County. We also have a neighbor who is obstructing our flow of water. We have worked with our neighbor for 23 years, and we haven't settled anything.

Commissioner Nix: You waited until we got elected then, right?

Ann Farney: I'm sorry.

Commissioner Nix: You saw us coming, didn't you?

Ann Farney: We have, we truly have tried.

Commissioner Nix: I'm teasing.

President Musgrave: Do you have a petition on the form and a \$100 check?

Ann Farney: We don't have, but I'll give you a hundred dollars if you just listen. I mean, tell me, we were told, we did call, Scott at the County Garage came out and looked at it, and this is what he told us our next step is to come here. Now, he didn't tell us about going to Bill, or we could have done that, but we didn't get you involved. So, we don't really know. He just told us this was the place to come. So, that's what we did.

Ted C. Ziemer, Jr.: I would think the appropriate procedure would be for you to go to Bill--

Ann Farney: Go to Bill?

Ted C. Ziemer, Jr.: –and get a petition on file, and in the meantime we're going to have understood more about these petitions than we do today, and then we'll be happy to hear from you and to help you every way we can.

Ann Farney: Can you tell us where we find the actual law that says that you can't block someone's drain?

Commissioner Nix: We just happen to have a copy here.

Ann Farney: That's what we need. Like I say, we've fought this for 23 years.

Commissioner Nix: We've even done the work and highlighted the big spots.

Ann Farney: It will be 24 next month. So, we will—

President Musgrave: You'll be back at another meeting?

Commissioner Nix: The other thing, you know, Mr. Jeffers, can determine whether it's a public or private, I mean, that even could be an issue. There could be an easement situation.

Ann Farney: Well, they're supposed to be working on it to find out if this drain actually is, it goes into a ditch, but if this is—

Charlie Farney: What he's done, (inaudible) under the ground, I had a tile run in the ditch, it used to be four foot deep. When he ran it, I put a tile down through it, he was supposed to pay for half of it, at the other end he mashed it shut right off the bat, when I put a tile through it. Every time I put a tile there, he raises his part of the ditch so that my tile won't drain. He just did it three weeks ago. Whatever I done, he counteracts it to shut my tile off. Which I've got some pictures here if you want to look at it.

Bill Jeffers: What you need to do before 5:00 is go down and talk to Linda in my office, room 325, and get the forms to fill out so that everything is kosher with this statute that he handed you.

President Musgrave: Okay, you have about eight minutes.

Ann Farney: Okay, we'll fly.

Bill Jeffers: Okay, then we'll see you next month.

Ann Farney: Okay, thanks guys.

President Musgrave: Thanks for coming.

Bill Jeffers: Ask her to fill out the claim response form so that we have all your data.

Ann Farney: And you're in room....are you downstairs?

President Musgrave: No.

Brenda Jeffers: 325.

Bill Jeffers: You can go with them if you want to.

Brenda Jeffers: Okay.

Ann Farney: Thanks.

Commissioner Nix: Thank you all.

Bill Jeffers: I'm going to let you in on a little secret, you know, you guys got off easy last year, and didn't have any of these, but as you can see—

President Musgrave: We weren't here last year.

Bill Jeffers: —there will be more than one.

Commissioner Nix: We weren't here last year.

President Musgrave: Yeah, this is year one for us.

Bill Jeffers: Oh, this is year one for you?

President Musgrave: Yeah.

Commissioner Nix: First round.

Bill Jeffers: Well, 2005 is what I mean.

Madelyn Grayson: I've been through about three of them.

Bill Jeffers: Over the past nine months you've been, yeah, because the deal was with Suzanne, she told me to make sure none of these came before the board until she left.

Commissioner Nix: Until she left.

Madelyn Grayson: I would be glad to provide research on the previous ones.

President Musgrave: We would like the same deal.

Commissioner Nix: Maybe we should defer this another three years.

### **Encroachment Agreements**

President Musgrave: Are we ready to move on to encroachment agreements, if any?

Bill Jeffers: There are none, Madam Chairlady.

### **Ditch Maintenance Claims**

President Musgrave: And, ditch maintenance claims.

Bill Jeffers: You have them on your desk. They, every ditch has been finished in that folder, inspected by our crew, and authorized for, or excuse me, recommended for payment by me.

President Musgrave: Is there a motion to pay the ditch claims?

Commissioner Nix: So moved.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

**Public Comment**

President Musgrave: Is there, we are now at the portion of our agenda where we take public comment. Is there anyone here wishing to, and I see no one. Mr. Nix, would you like to adjourn?

Bill Jeffers: Whoa, whoa, whoa.

Commissioner Nix: Motion to adjourn.

President Musgrave: Whoa?

**Discussion of RFP for Special Projects**

Bill Jeffers: I had a brief discussion with Mr. Nix about some projects that are coming up, that I hope are coming up, and, basically, what spurred it is on several of our ditches that serve the Levee Corporation, there's beaver dams discovered and the Levee Supervisor has asked us to take a look at, and I'm handing Mr. Ziemer a copy of a request for proposals because so many of these projects have come up that I'm going to ask the Drainage Board at the first of the year to look into seeking engineering proposals from consultants to help me with these extensive projects.

Madelyn Grayson: Do you have a copy of what you handed to Mr. Ziemer?

Bill Jeffers: Yes, I will. Basically, I just gave Mr., I've never written one of these requests for proposals before, so, I'm asking your permission to give it to Mr. Ziemer to see if I wrote it properly.

Commissioner Nix: So moved.

President Musgrave: Second. All those in favor?

All Commissioners: Aye.

Commissioner Nix: And, basically, what Mr. Jeffers and I spoke about was just some projects that enhance the draining situation in the county. This is some things that we feel are important to do, and some of it ties in to what Mr. Stoll's working on, so that would be prudent to move ahead with this.

President Musgrave: Alright.

Bill Jeffers: Thank you.

President Musgrave: Is there any other business?

Bill Jeffers: Not unless you want to pursue the discussion of this statute?

President Musgrave: Not without food?

Commissioner Nix: Motion to adjourn.

Bill Jeffers: Not without food.

President Musgrave: Second.

Commissioner Nix: All in favor?

President Musgrave: All in favor?

All Commissioners: Aye.

(The meeting was adjourned at 4:55 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Ted C. Ziemer, Jr.  
Ann Farney  
Members of Media

Bill Nix  
Madelyn Grayson  
Charlie Farney

Bill Jeffers  
Chris Weil  
Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

Recorded and transcribed by Madelyn Grayson.

**VANDERBURGH COUNTY  
DRAINAGE BOARD  
NOVEMBER 22, 2005**

The Vanderburgh County Drainage Board met in session this 22<sup>nd</sup> day of November, 2005 at 4:04 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the November 22<sup>nd</sup> meeting of the Vanderburgh County Drainage Board.

**Approval of the October 25, 2005 Drainage Board Meeting Minutes**

President Musgrave: We have on the agenda the approval of the minutes of the previous meeting.

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

President Musgrave: The minutes shall be shown approved.

**Receive Report of Schnaus Petition to Remove Obstruction &  
Authorize Notification of Public Hearing**

President Musgrave: Old business, we have receive report on Schnaus petition to remove obstruction. Mr. Jeffers?

Bill Jeffers: Last month you received a petition from Steven R. Schnaus, 4109 Gayne Avenue, Evansville, Indiana, requesting the board order the removal of an obstruction alleged to exist on his neighbor's properties. The statute requires that the Surveyor conduct an investigation and file a report. I e-mailed you copies of the report. Would anyone like a hard copy?

Commissioner Nix: Please.

Commissioner Shetler: If you have an extra.

Commissioner Nix: I left mine in the office.

Commissioner Shetler: Thank you.

Bill Jeffers: Sure. I have with me a notice of a hearing that I've prepared for Mr. Ziemer's approval as to form. If he approves it as to form, I would suggest....

Ted C. Ziemer, Jr.: Which I do.

Bill Jeffers: – you do, and I would suggest that the board sign it and have Madelyn Grayson advertise in the newspaper. I tried to make it as brief as I could so it

wouldn't cost too much. You can read the report. After you sign this you can read the report at your leisure.

President Musgrave: I have read the report.

Bill Jeffers: Okay.

President Musgrave: And am impressed with the in depth analysis that you put into place. I congratulate you and your staff.

Bill Jeffers: Well, thank you, Mrs. Musgrave. Since it's the first such action that the three members of the board will have to deal with, I thought you should have as much information as I could provide. Normally, the report wouldn't be that in depth, but I'm here to provide the details you need. So, I'm going to pass this for your signature, and as you ordered last month, the hearing will be held December 20, 2005 at or about 4:00 p.m.

President Musgrave: Do we need to have a motion on this advertisement, Mr. Ziemer?

Ted C. Ziemer, Jr.: Yes.

Commissioner Nix: So moved.

Ted C. Ziemer, Jr.: To have a hearing for December 20th.

Commissioner Shetler: Second.

Ted C. Ziemer, Jr.: And to have it advertised.

President Musgrave: And your motion is to set the hearing for the 20<sup>th</sup>?

Commissioner Nix: And order it advertised, yes.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

Bill Jeffers: I will distribute the rest of these hard copies, along with a cover copy of the notice to the five affected property owners, and hope that they read it, and they can respond to our office if they have any questions before the 20<sup>th</sup>. None of the persons affected are in the audience today to speak to it.

Madelyn Grayson: Mr. Jeffers, didn't you say we also need to, did I miss that? We also need to send by certified mail a copy of this notice to those affected?

Bill Jeffers: Yes, Ma'am.

Madelyn Grayson: I'll do that.

President Musgrave: Are you ready to move on to drainage plans, Mr. Jeffers?

Bill Jeffers: Yes, Ma'am.

**QTR Lot 3 (Previously Lots 4 & 5): St. Joseph Industrial Park:  
Final Drainage Plan**

President Musgrave: We come now to quarter lot three, formerly lots four and five, St. Joseph Industrial Park, final drainage plan.

Bill Jeffers: This is a plan on behalf of QTR, Corporation, Lot Three, which was previously known as lots four and five, St. Joe Industrial Park. That's how you approved the preliminary plan as, I think, lot four and part of lot five, but they've gone through APC and incorporated it all into what's now known as lot three.

President Musgrave: Oh, okay.

Bill Jeffers: St. Joe Industrial Park. This is a final drainage plan. The person preparing the plan, Justin Shofstall, from Andy Easley Engineering is here in the audience should you have any questions. The County Surveyor has reviewed the plan and find it comports with the drainage code and recommends approval of the final drainage plan for QTR.

Commissioner Nix: Move approval.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. I'm sorry I called it quarter when it should have been QTR.

Bill Jeffers: We all did that in the office. I should have put some periods between the initials.

President Musgrave: Are you ready to move to The Glens, a 25 acre residential development?

Bill Jeffers: Yes, Ma'am.

**The Glens: 25 Acre Residential Development: Lynch/Oak Hill Rd:  
Preliminary Drainage Plan**

President Musgrave: It is the preliminary drainage plan.

Bill Jeffers: Okay, preliminary drainage plan is required, or it's not, well, Area Plan Commission requires that a drainage plan be approved before they hear a subdivision for primary approval on the second Thursday of the month in December. This is a preliminary plan that meets the requirements of the drainage code for preliminary plan. A final plan will have to have much more detail. But, this allows the developer to move forward with a conceptual plan that should the subdivision plat be approved at next month's Area Plan Commission meeting, the developer can instruct his engineer to move forward with a more detailed and more expensive plan



for the entire subdivision that the drainage code requires much more detail of. Mr. Keith Poff is the engineer for this plan, and he's here in the audience to answer any questions, if you should have them.

President Musgrave: I have a question. I sit on Area Plan as well and have seen some of the discussion about this proposed development come forward, and I am very concerned about Mariner Drive and it's nearness to the Lynch Road, and quite concerned that there will be left turns going in and out of this. I'm opposed to those residences feeding out onto Mariner Drive, and would prefer access going to the other subdivision to the north, and then access to Oak Hill further north, instead of Mariner Drive. I'm fairly new on drainage board, and what I don't understand is whether preliminary approval of these plans forecloses an opportunity later for the improved access that I just outlined to be made.

Bill Jeffers: I agree exactly with what you've said. I guess, I should put in a disclaimer, I drive Oak Hill Road a minimum twice a day to and from work. I also sit on Area Plan Commission, and am also thinking exactly like you are with regards to the traffic situation at Mariner and Oak Hill. EUTS estimates 860 cars per day will exit Mariner, if you don't know where Mariner is, that's the Moto gas station at Lynch and Oak Hill. There's a development that's under review by the city across the street behind, Citizens became Fifth Third? Fifth Third Bank and that will be probably, most likely a drug store, what's the one with the initials down there?

Commissioner Nix: CVS.

Bill Jeffers: CVS drug store which generates a lot of traffic, and may have a liquor license since it's inside the city on the other side of the street. The exits, Mariner Drive does not line up with the proposed exit for CVS. Those are offset so that the left turners on to Oak Hill Road will be conflicting, and both of the exiting traffics, traffic flows will be across turn lanes. There would be essentially four lanes that will be crossing at an extremely busy intersection. So, those are concerns that should be addressed by Area Plan Commission and EUTS. That's my disclaimer, you know, I'm not happy with the traffic situation. However, the question is, will your approval of a preliminary drainage plan preclude the possibility for a modification of the traffic plan? The answer to that is no. Your approval is required for this plan to move, for the plat itself to move forward to APC. APC will not hear the primary plat if you deny the drainage plan. But, they are separate issues until you talk about the extension of streets eastward to intersect with the southerly extension of Congress, which would take it up to two other roads out to Oak Hill, Bergdolt and it's not Eastbrook, it's—

Unidentified: Elmridge.

Bill Jeffers: Elmridge, thank you. Those two would then exit, both those have traffic problems. I believe your Commission is considering an upgrade of Bergdolt and Oak Hill that's very similar to St. George.

Commissioner Nix: That's in the workings here as we speak.

Bill Jeffers: Right. Elmridge is horrible. I personally slow down and let two or three cars out of Elmridge each time I come in to town, because they are backed up.

Commissioner Nix: Let me ask you, Mr. Jeffers, if there are road improvements, or there's additional access in and out, would that impact these drainage issues?

Bill Jeffers: Yes, sir, that's exactly what I was taking too long to get around to.

Commissioner Nix: I'm sorry.

Bill Jeffers: You're exactly right. To extend a road eastward to intersect with Congress would require going across about a 12 foot deep gully that will have to have drainage facilities to allow all the water that drains out of the other subdivisions, and this proposed subdivision, to get to Pigeon Creek. That would have to show up on a modified version of the drainage plan that's before you now. If they went north, directly from the subdivision through what appears to be a right-of-way to Elmridge, but may not be a complete, that would require some drainage structures that would have to be incorporated also. So, the answer, the short answer is, no, your approval of this preliminary plan does not preclude modifications that would appear in a final plan, but, yes, it does allow the plat to move forward to Area Plan Commission.

President Musgrave: I have another question. On what grounds can we deny a preliminary drainage plan?

Bill Jeffers: My layman's opinion is that you have two grounds, one is if the plan does not comport with the requirements of content of the drainage code. It does comport with the required contents. The second way that you can deny it is that the code allows the board to act, at their discretion, on a case by case basis, and doesn't give, doesn't say that you have to have any specific reasons for acting on a case by case basis.

President Musgrave: Well, I would personally like to see a drainage plan that addresses access to some other ingress/egress—

Commissioner Nix: And correct me if I'm wrong, if there are additional, anything that's added to this, or taking, well, anything that's added to this, it would be brought back in front of the drainage board before it would be approved, is that correct? If there's any modifications?

Bill Jeffers: If there's any modifications to the plan that you have in front of you that are incorporated into the final plan, that you would probably hear in a month or two from now, the plat will have already been approved, or disapproved by Area Plan Commission. You may need to know since two of you, I don't believe, Mr. Shetler, have you served on Area Plan Commission in the past?

Commissioner Shetler: I have.

Bill Jeffers: You have, okay. Since you've served, there's been a court ruling where a local judge ruled in favor of the plaintiff who sued the Area Plan Commission because we denied a plat that was found to have totally comported with the local subdivision code, but many of us on the Area Plan Commission disagreed and thought that there should be other conditions added to the plat, and some of us even moved some of those conditions to be added to the plat, but the courts struck that down and said that we were to only vote, that we, actually the court decision that we must vote yes for any plat that meets the requirements, the minimum requirements of the subdivision code.

President Musgrave: That's at Area Plan and not drainage board?

Bill Jeffers: That's at Area Plan. What I'm saying, and you will remember this, Mrs. Musgrave, I specifically made a motion at Area Plan Commission that Heritage Park have a service road, and I documented it with trips per day, etcetera, and was instructed, was encouraged by the attorney for Area Plan Commission not to introduce the motion, and upon the attorney's advice, the motion was defeated, I think one or two to ten. You know the results of that project at this time.

President Musgrave: And I am so enjoying them.

Bill Jeffers: I should tell you before, you may have some other questions, but I should tell you that Fred and Lori Meyers of 4115 Rosewood Avenue and R.A. Schaefer of 3311 Oak Terrace are both here to speak to this issue.

President Musgrave: Alright, whichever of you prefers to come first.

Fred Meyers: I'm Fred Meyers, this is my wife, Lori. We first came on the drainage, but since we've been discussing the exit in and out, if we can proceed with that, because I'm going to be right back at the Plan Commission if it goes this far. Can I just use this kind of—

Bill Jeffers: Here, sir, right here is—

Fred Meyers: Oh, you've got a pointer. I'm retired, I haven't used one of these in five years.

Bill Jeffers: Well, I'm retarded.

Fred Meyers: Thank you.

Unidentified: (Inaudible. Not at mic.)

President Musgrave: Mr. and Mrs. Meyers?

Lori Meyers: Yes, Ma'am?

President Musgrave: Do please confine your comments to drainage related issues since this is the drainage board.

Fred Meyers: Okay, will do. Our property, can this be moved—

Brenda Jeffers: Yes.

Fred Meyers: —where this shows this way a little bit? Perfect. Okay, see right here, this is Rosewood Avenue. My property is right here, all this down here. Now, the drainage question I have is where is the water going to come to? Right here is Pigeon Creek. In the fall and the winter when the Ohio River floods, Pigeon Creek floods. This entire area backs up with water. This is a, along this property here, this is like a drainage creek, and all the water from the subdivision here and here drains down through here. This is, I think what you were saying, where you extend the street through you've got to drop down, but this is all like a natural drainage area. When we had the county assessment come in, you know, I appealed with all my property here, and then a county assessor came out and I'm paying like \$20 a month now instead of \$2,000. So, I suggest—

Lori Meyers: It's not, excuse me, it's not property that you can develop. It's all within the flood plain. It's not buildable property.

Fred Meyers: When they come in about two years ago they put in storm sewers in our subdivision here, which before was natural runoff. Well, what has happened now, down in this natural area the water sits. Where before the natural runoff would just, it would dissipate. If you come out in the fall and the spring when the floods come up and all this backs up, where is this water going to go? Now, just remember, Pigeon Creek is on this side right over here. I think there's a culvert that runs underneath here, but this natural drainage comes from Pigeon Creek. But it does back up. Right there, that's where there's a basketball court in my backyard. That floods every year. It gets up to probably close to about ten feet from my back fence. This is flood plain. This is flood plain. Because I pay flood plain insurance right now. So, my question would be for the drainage coming in, where is the water going to go? Basically, I think it's going to come this way.

President Musgrave: Mr. Jeffers?

Fred Meyers: I think that's what you have to look at. I'm sorry if I'm not speaking in the microphone.

President Musgrave: I think you're okay.

Fred Meyers: Okay.

President Musgrave: But, I wanted to make sure that the engineer had the opportunity to answer that question.

Fred Meyers: The engineer's been out there to physically look at it.

Bill Jeffers: Yes, the plan shows some small amount of drainage from these lots will come out along Lynch Road right-of-way ditch and travel straight down to where the bridge carries Pigeon Creek under Lynch Road, the large bridge that was built by the federal project. Okay? The rest of the area, which is the front yards of all these lots, this central area, and the front yards of this tier up here will all drain back into this area where there will be a large lake. We call them detention lakes. The water will be stored in this area, held, and released at a slower rate of a ten year storm. They've established the release rate for a ten year storm. It will be discharged out this way and down through this natural watercourse right through here, which joins with the Lynch Road drainage, at some point, and it also goes over here to the large bridge and passes under Lynch Road. There is a natural, as Mr. Meyers states, there's a natural waterway down along this back line. It will be left there, and the backyards of all these lots from right here, all the backyards all the way down, will continue to drain into that natural open ditch, and that will also come through the Meyers' property at the rate of which, you know, at a sheet flow rate at which it would naturally flow off the backyards. We anticipate no hard surfaces would contribute to that grassy area back there, but as we know there may be a few patios and swimming pools and that type of thing. But, basically, that would just be sheet flow.

Fred Meyers: (Inaudible).

Bill Jeffers: Then the, as I said, the engineer is here to answer more technical details if they should be needed.

Commissioner Shetler: Mr. Jeffers?

Fred Meyers: Let me just correct one thing. There is a culvert that the water that runs here, a little creek comes across underneath Lynch Road into Pigeon Creek. The water does not necessarily always, the water that comes here flows underneath this culvert into Pigeon Creek. When the water is up, it floods, then it comes up and there's some retention ponds up here and the water goes here, but, basically, right now, the water goes this way. Not this way. Because you can walk through my backyard and see the culvert that goes under the bridge.

Commissioner Nix: Where do you normally see the water coming from?

Fred Meyers: It, it basically comes, when we have rain and storm water, all the water comes from the subdivisions up here down this way. When the Ohio River floods, or Pigeon Creek floods, everything backs up, then the water comes this way. It goes backwards and just rises. When they put the new culverts in there, I thought we're going to have water popping out of the storm sewers, but I think that it was deep enough that it didn't do it. So, what happens during flood season, this is all flooded area, so I don't know if this is going to cause any more problems during our two or three floods a year.

President Musgrave: So, you're objecting to the drainage plan that has been filed today?

Fred Meyers: Yes.

Lori Meyers: Yes.

President Musgrave: Alright, thank you.

Bill Jeffers: How long have you lived there?

Lori Meyers: Since January of 2000.

President Musgrave: The question was how long they had lived there.

Bill Jeffers: Yes, I asked them how long they lived there, January of 2000 was the answer. The reason I asked that is that in 1996 we had what some people consider a 100 year storm, it wasn't a 100 year flood, because the river wasn't in 100 year flood stage, but the watershed generated a 100 year runoff, and the water, as Mr. Meyers pointed out, backed up. This street here was flooded pretty much back to the first house. This area was all flooded pretty much right up to the backyard. Elmridge was flooded several feet deep where this creek crosses Elmridge up here, and one house was flooded, oh, 14 inches deep up there, it's built below flood plain though.

President Musgrave: So, you're saying the street itself was flooded?

Bill Jeffers: Yeah, all these streets were flooded at some point, and the water backed up from Pigeon Creek all the way back up to about here. It was six inches deeper than on this side over here because Lynch Road holds back that much.

Commissioner Nix: : Correct me if I'm wrong, Mr. Jeffers, this development here is taking in consideration the water that is going to maintain within itself, is that correct? I mean—

Bill Jeffers: Yes, sir.

Commissioner Nix: —because that's normally, the drainage plan, that's the whole idea behind this is—

Bill Jeffers: That's correct.

Commissioner Nix: —if you add hard surface, or if you do any of those things at all that you've got a, you have to show that you're going to retain more water than you originally retained before adding hard surfaces and roofs and what have you, is that correct?

Bill Jeffers: That's correct. This subdivision here, at one time was planned to be apartments by Mr. Buddy Bauer, Sr. This was called MIB Subdivision, and it was all going to be apartments, and we had, the drainage board had released them from the obligation of detention, because at that time Lynch Road had not been built yet, okay? And open drainage would have allowed for all that water to run off to the creek, very quickly, and not negatively impact any properties, because it's so close to the creek, and Lynch Road side ditch could have carried that, but the design for the bridge was such, by the state, who likes to cut it down to the bare minimum cost, that the opening from Pigeon Creek raises the flood plain one tenth of an inch at the opening, and as I said, five tenths of a foot back here, one tenth of a foot. Back here it's five tenths of a foot higher, half a foot higher. So, at that, so, when this came through I asked Mr. Poff to put detention in here to release us from our previous waiver, and he agreed and Mr. Buck agreed to put the detention basin in here, hold a 25 year storm and release it as a ten year pre-development storm. That meets the requirement of our drainage ordinance, and should satisfy the additional runoff, control it and release it at a slower rate.

Commissioner Nix: So, in essence, and after running the numbers, this really isn't going to impact this drainage issue at all along the east portion of this property?

Bill Jeffers: It will be very insignificant, because this is such a huge watershed. I mean, we are draining everything from almost Princeton, up near Toyota, you know what I'm saying?

Commissioner Nix: So, the problem is not this—

Bill Jeffers: A very insignificant amount of additional runoff. It's controlled to runoff at a lower rate than it would otherwise runoff.

Commissioner Nix: So, in essence, it may even help them a little bit?

Bill Jeffers: It may help, that's correct.

Lori Meyers: Excuse me, Mr. Jeffers, where would it improve? Excuse me, where would it improve the runoff do you believe?

Bill Jeffers: What it, essentially, what the plan does is holds the water in this lake and releases it into this creek, this waterway right here, which is hard to tell with the lights on, but there is a definite deep ditch through here, well, right there it is—

Lori Meyers: Right.

Bill Jeffers: —and it will—

Lori Meyers: (Inaudible) middle of our property (Inaudible).

Bill Jeffers: That's right, it will release the water into that ditch at a much slower rate than would otherwise come off of there during a heavy rainstorm. So, it will, that's the improvement it makes, it releases the water at a slower rate. Less cubic feet per second. So, it has less impact on the ditch that runs through your property.

President Musgrave: Was there another objector present who would like to put some remarks on the record?

Robert Schaefer: No, (Inaudible. Not at the mic.)

President Musgrave: All you can talk about at today's meeting is drainage.

Robert Schaefer: I live on (Inaudible)--

President Musgrave: I need you to come to the microphone though, otherwise, your comments are lost for the record. Go ahead and state your name and address again.

Robert Schaefer: I'm Robert Schaefer, and I live at 3311 Oak Terrace. Where's that pointer at?

Bill Jeffers: Push this button right here.

Robert Schaefer: Okay. I live back here on Oak Terrace on the back side of it. So, I wouldn't have any drainage problems. So, I wasn't really interested in the drainage today, it was the traffic problems I was worried about.

President Musgrave: Okay, so, you'll be back to the Area Plan meeting—

Robert Schaefer: Yes.

President Musgrave: —if this board approves the drainage plan.

Robert Schaefer: That's correct, yes.

President Musgrave: Okay, those of you who are opposed to this in one form or another, you may want to form a group and get some exhibits and organize before you come to the Area Plan meeting. That's a very effective way to get your message across. Is there anything further? Oh, Mr. Shetler?

Commissioner Shetler: Mr. Jeffers? Now, would it make any difference if we're talking about the spring of the year, particularly, I guess, late winter, early spring when we get the flood waters and the back waters from Pigeon Creek, I know there's a drainage pond that's further east of this project—

Bill Jeffers: Yes, sir.

Commissioner Shetler: –maybe slightly north, but I think it's primarily pretty east of that, and that whole area becomes, it seems like very swamped at best, many times flooded at that time of the year.

Bill Jeffers: That's correct.

Commissioner Shetler: So, is this going to be something with all the hard surfaces and everything that's going to actually make it, you know, wetter, and more of a problem, more often?

Bill Jeffers: The, this pond here is a borrow pit that was used to acquire dirt either to build Lynch Road or to raise the houses back here in Romain Subdivision. This one here, you see just the southern part of it, that's another detention basin that holds water and releases it more slowly into Pigeon Creek. There will be a greater amount of runoff from the individual lots in this subdivision after development because they will be covered with between 35 and 45 percent hard surface; rooftops, driveways, patios, swimming pools, etcetera, sidewalks. That will increase the rate of runoff from the surface within this 25 acres substantially. Because it increases the runoff, especially during the times of year that you're speaking of, Mr. Shetler, when the ground is saturated to begin with, we know that it will increase that runoff, that's why we have the code requirement to build a detention basin here, and all that, not all of it, but the majority of the hard surface water will be piped into that basin from the street system and from the yards and held there, and the basin has an orifice plate in the outlet pipe that only allows so many cubic feet per second to leave the basin. All the rest of it continues to stack up in the basin and store, and over a longer period of time, where that 25 acre field might reach a peak discharge under natural conditions, it's an alfalfa field for the last couple of years, say it would take four hours for the water to peak and discharge, and it would probably discharge it at a rate that would fill a 12 inch pipe or a 15 inch pipe. If you were to pave it and not have any detention at all, it would probably peak out at about 28 minutes, and it would run at peak for six hours and it would take a 48 inch pipe to carry all that water. So, that's why we're storing it in that basin and the orifice, Keith, what size orifice is that?

Keith Poff: (Inaudible).

Bill Jeffers: It's a 12 inch pipe, that's all the water that can leave that basin, out of a 12 inch pipe, just like as if it were still an alfalfa field, but it will be leaving out of that pipe for probably four hours, rather than just a few minutes. Now, that should, that does satisfy the requirement of the code. However, if you're under flood conditions, you're just, there's a common expression for it that we use in the field, but spittin' in the wind I think they call it, you know.

Commissioner Shetler: I guess, my concern is, is that I see this detention or retention pond–

Bill Jeffers: Yes, sir.

Commissioner Shetler: –that is basically north of the eastern part of that subdivision. As opposed to being entirely on the eastern part of it. That is also on a downhill slope, that whole property. I'm just kind of wondering how, some of that looks like you have to run some water laterally or else uphill, and I'm not so sure how that's



going to all work. It's defying gravity to some degree. I'm looking at least, particularly that eastern, or the southern side of that development.

Keith Poff: Good afternoon, Keith Poff of Sitecon. If the cul-de-sac that extends to the east actually lies on a natural ridge portion, part of that property has a higher elevation on the south side than the north side. So, we have placed the detention basin in the natural location, really don't accomplish much when you work against what the grade is doing, so, our grade will fall down to the natural location, which is the north side of that project. But the properties that are south, directly south of about ten, twelve lots, well, actually it would be double on both sides, they'll only be able to go that direction then. We're going to collect developed water from effectively the house location to the street. All of the interior will go into the basin. The portion of the property that will not go into the detention basin are the extreme south half of the lots along Lynch Road, because they can drain into a roadside ditch, the extreme southeast corner, which naturally falls in that direction anyway, but everything that's improved we will have the rooftop water, the street water go into the piping system and ultimately into the lake.

Commissioner Shetler: So, then what you're telling me then is that those ten, twelve, fourteen lots that are south of the detention pond will go directly into an open drainage that will flow down into that lower part, that basin, they won't be detained at all? In the—

Keith Poff: I think I'm going to have to get a clarification of where you're at.

Fred Meyers: There's a ridge that runs right along—

Commissioner Shetler: These lots here, will these be going down here or are they going to go back over here and be detained for a bit?

Keith Poff: No. The purple lines that you see and the basin numbers, this is an area, basin B1 is this entire polygon—

Commissioner Shetler: Yes.

Keith Poff:— will be collected into this curb inlet. Just like this polygon on this side will be collected in that inlet, and all that water will come through this pipe into the lake. So, the portions that are outside here are the ones that will not go into the detention basin.

Commissioner Nix: And this was a natural drain to Lynch Road anyway.

Keith Poff: Well, it's a roadside ditch in the natural direction.

Commissioner Nix: Right.

Keith Poff: But, the backyards will be less improved with impervious than anything else. Most people do keep the majority of the rear lawn area.

Commissioner Shetler: But, this stuff is basically going to come down here and go down into that valley—

Keith Poff: Yes.

Commissioner Shetler: –where it floods anyway, and there will be some addition to it.

Keith Poff: That's the current path of drainage today.

Commissioner Shetler: I understand, but they're not, it's not with hard surface on it improved.

Keith Poff: Well, these areas won't be.

Commissioner Shetler: It's going to add something to it.

Keith Poff: No, everything, the houses and things like that are being brought into the front. If you look at the building location, it's going to sit 25 feet from the street, so where that lot number is is where the house will sit. So, the house is completely inside the collection area.

Commissioner Shetler: All patios, all–

Keith Poff: Not necessarily. I can't guarantee that. But, those are the–

Commissioner Shetler: –rear gutters on the back end of the houses, all that kind of stuff?

Keith Poff: Will be required to come to the street. (Inaudible).

Commissioner Shetler: Because I travel that way a lot, and I know how bad it gets.

Commissioner Nix: Mr. Poff, there's a formula that you use, I'm familiar with this because we just got off of it. There's a formula that you use that equates the existing runoff and what you're doing right now. How much are you going to improve the runoff on the property on a percentage basis by putting this detention in versus the way it sits right now?

Keith Poff: I don't know if I can express that as a percentage. I can tell you that the code requirement is that we analyze the existing property surface conditions in a ten year rainfall event on those conditions, come up with a flow rate that that entire site will generate. Then we take a 25 year storm on the developed conditions, calculate that flow, we take the difference, and we hold that. That's what is required by the drainage ordinance is to hold a 25 year developed flow to a 10 year undeveloped rate. For this piece of property that came out to 50,000 cubic feet of storage. The basin that we are going to provide is going to hold approximately 250,000 cubic feet of storage. So, we're going to provide about five times what the code requires us.

Commissioner Shetler: I understand that it's adequate to take care of the stuff that's west of and adjacent to, but the properties that I'm concerned that I think are going to be an additional burden on the already flooded areas, at least flooded during particular times of the year, are some of those properties that are south, at least the back sides of those properties, which will be somewhat developed, and we're going to increase some runoff because of those.

Keith Poff: I don't know that I could even calculate the difference on what that would be for a condition of some have patios and some don't. I mean, I don't think the magnitude would even show up in the calculation for those areas. But, we are

collecting the majority of our site into one basin that is on the opposite side of the natural drain. You're not going across that natural drain position, so, we are holding everything on our side of the hill, if you will, holding it to the rate that we're required to hold, providing five times the required storage, and then releasing it at that required rate.

President Musgrave: May I ask you to hold your comments while we change the tape?

**(Tape change)**

President Musgrave: Alright. Anything further?

Commissioner Nix: So, in essence, I mean, just the bottom line is, you're actually helping this drainage situation?

Keith Poff: Up to a 25 year storm event this project will assist in holding back some storm water.

Commissioner Nix: Taking into consideration—

Keith Poff: Yeah.

Commissioner Nix: —excuse me, the hard surface and all the other things over and above that?

Keith Poff: If you will, if we can go back to just the storm event, we're going to hold the water back to a 10 year storm when there's a 25 year storm that occurs. So, we're actually making an improvement there just by the storm event that's on the area. If that field were there today and there's a 25 year storm event, it would generate more water than what this development will generate when there's a 25 year storm event. We have to hold it to a ten.

President Musgrave: Thank you. Any further comments?

Bill Jeffers: While Mr. Poff was up at the desk, up at the front desk, did I hear you say that the down spouts from the backsides of the southern tier of lots, all the homes, the down spouts from the backsides will have to be taken out to the street?

Keith Poff: Well, we haven't committed to that, but that's a requirement that can be made if you would like. Normally, what we prefer to do is to have the down spouts pop up and emit their discharge in the lawn areas. If those lawn areas were graded to the front, then it would go to the front. If those need to stay ten feet away from the home, if in a development like this there's only five feet to the property line then they normally go to the rear, and then they discharge the water across the surface. If they go to the rear, then they'll go to the rear of the property.

Bill Jeffers: I might have misunderstood, because I was sitting back there and you all were speaking up there, but that would have addressed some of Mr. Shetler's concerns that as much hard surface as possible would be drained to the street, even some of the backyard.

Keith Poff: That's something that we can consider. It's just that at this point we're discouraged from piping storm water runoff unnecessarily. We're encourage to put it into the grass areas.

President Musgrave: Mrs. Meyers, you had an additional comment?

Lori Meyers: Yes, thank you. I just wanted to reference that the ten year numbers, I believe from '96 from what Mr. Jeffers mentioned don't, I don't know if they take in to consideration the storm sewer improvements that were put into the subdivision in the year 2002? From the fall of 2002 through the early part of 2003. The reason I reference this is they went through Congress Avenue in front of our home on Rosewood and up part of, both ends of North Iroquois and put in storm sewer and they routed all of that to drain through the easement down through the end of Congress down by our property. So, that water from those storm sewer additions now drains to this same bottom point that they were referencing.

Fred Meyers: (Inaudible).

Lori Meyers: It sits.

President Musgrave: Thank you.

Lori Meyers: Was that clear, Ma'am?

President Musgrave: Yes, that was. Thank you, Mrs. Meyers. Mr. Jeffers, do you have further information?

Bill Jeffers: No, Ma'am, other than to tell you that, I think I've already said that the preliminary plan does comport with the minimum requirements of the drainage code for a preliminary plan.

Commissioner Nix: Let me make sure I understand this too. If there are any changes to this at all, then it comes back in front of this board? Is that correct?

Bill Jeffers: Yes, sir. Any modifications whatsoever to this plan—

Commissioner Nix: This is preliminary anyway, so it's going to come back.

Bill Jeffers: —must be incorporated into the final plan.

Commissioner Nix: This isn't complete.

Bill Jeffers: Or subsequent modifications of the final plan could, if they are significant would come back before you. Or if you ask that all modifications come back before you, that would be the case.

President Musgrave: This plan would allow them to go forward to Area Plan for a rezoning, and then Area Plan is the final word on a rezoning, correct?

Bill Jeffers: Approval of this plan would allow them to go forward for the approval of their primary plat. Their rezoning is somewhat separate. I think they are going for an R-3 zoning so they can cover more hard surface. In other words, under R-1 they can only go 35 percent of total area hard surface on a lot. They want to have 86, my understanding is they want to have 86 lots with 40 or 45 percent coverage, so that's

the rezoning issue. But, no, this, your approval of this drainage plan will allow them to appear in front of Area Plan Commission for primary plat approval.

President Musgrave: Commissioners, is there a motion?

Commissioner Nix: I make a motion that we approve.

Commissioner Shetler: I'll second. I have serious reservations, but I realize it's more technical in nature than it is otherwise, but I have very serious questions about traffic and other things that I think are more considered for when we deal with the rezoning issues later. But, I'll second the motion.

President Musgrave: All those in favor?

Commissioner Nix: Aye.

Commissioner Shetler: Aye.

President Musgrave: Opposed? Aye. The motion carries.

#### **Petitions to Remove Obstructions**

President Musgrave: We move now to other business. Receive petition to remove obstruction.

Bill Jeffers: Mr. and Mrs. Larry Mayes were in the office today and withdrew the petition, and we'll try to work with them and their neighbor on resolving the issue. They are temporarily withdrawing the petition. I have signed a quietus was it?

Madelyn Grayson: It was a blue claim to reinstate their petition filing fee.

Bill Jeffers: Right, so they got their \$100 back.

#### **Request to Relax Right-of-Way Entry: Crawford Brandeis Ditch Lot 26-Burkhardt Crossing**

President Musgrave: Next we move to the request to relax right-of-way entry, Crawford Brandeis Ditch, lot 26, Burkhardt Crossing.

#### **Resume Discussion of The Glens: Preliminary Plan**

President Musgrave: Mr. Jeffers, would it be appropriate to make a second motion that all of the changes of The Glens, for the drainage plan come back to this board?

Bill Jeffers: At your discretion, you may do that.

Commissioner Nix: So moved. I think that would be good.

Commissioner Shetler: Second.

President Musgrave: Any further discussion? All those in favor?

All Commissioners: Aye.

President Musgrave: So, let the record show that this board expects any and all drainage plans made to The Glens to come back to this board for approval. Thank you.

**Resume Discussion of Request to Relax Right-of-Way Entry:  
Crawford Brandeis Ditch Lot 26-Burkhardt Crossing**

Bill Jeffers: Okay, drainage code 36, or Indiana Code 36-9-27, which is the drainage code for the state, allows for a 75 foot right-of-entry for county regulated drains. If you look at the drawing that I put in front of you, lot 26 has that 75 foot right-of-entry imposed upon it. Burkhardt Crossing is the subdivision, it's a commercial subdivision. Lowe's is in this subdivision, across Old National Drive from this site to give you an idea of where we're at at Burkhardt and Morgan. To the north, lot 25 we relaxed the regulated drain easement to 20 feet from the center of the closest storm box culvert in Crawford Brandeis Ditch to allow Hudson Hyundai, which later became Kenny Kent Hyundai, to build their parking lot. We decided we still had plenty of room to do whatever maintenance we need to do to that box culvert, Crawford Brandeis Ditch, within that 20 feet. The law allows you to reduce it to no less than 15 feet from the center of the pipe, we're asking for 20 feet, as measured from the center of the eastern most box of that pipe. This is allowable and desirable for the owner of lot 26 who is here in the audience with Mr. Jim Morley, James E. Morley, who is the engineer and land surveyor representing this request. I believe the petitioner is asking to do this so that he can establish a car wash. So, it will be paved area. He will have to come back to site review. I will not allow any permanent structures to be erected in that area that would impede the proper maintenance and repair of the storm box that's owned by the county. I recommend that you allow this relaxation to 20 feet as measured from the center of the eastern most box culvert, Crawford Brandeis Ditch.

Commissioner Shetler: So moved.

Commissioner Nix: Second.

President Musgrave: Any discussion? All those in favor?

Commissioners: Aye.

President Musgrave: The motion carries. We move now to ditch maintenance claims. Are there any claims?

**Drainage Easement Encroachment Agreement:  
Julie A. France: 725 Alyssum Drive**

Bill Jeffers: There are, but there is one item that doesn't appear on your agenda, if I may impose upon you. Very simple. It would be in this place if I had gotten it on the agenda. This is way out on the west side at Eickhoff Koressel Road. It's called Ashley Place Subdivision, I believe.

Unidentified: Section D.

Bill Jeffers: Section D is outlined in red, it's lot 36. We have an easement, it's a 15 foot wide drainage easement along these lots right here. The reason being, you can see this pond used to be there, and we thought that leakage from this dam, I mean the pond was actually built over on this property, it had to be moved back, and we thought that seepage from this area might have to be intercepted along this easement and routed south to the big ditch and off. So, at the time of drainage planning several years ago, five or six years ago, we required a 15 foot easement there. Subsequently, the man that owns this property felt that this was a liability from all the children and he has filled all this area in. That pond no longer exists. So, the purpose for this easement has been drastically reduced and it's really not needed at all at this time. I don't want to abandon that easement though should someone else build a pond there. In the meantime, the owner of lot 36 desires to build a swimming pool. You can see that's a small lot from the drawing. Her home is in very close proximity to the back line, and her pool installer needs to encroach about one half of the drainage easement with the deck so that she might enjoy a pool. Our procedures allow for the encroachment of a drainage easement if the owner of the property submits the proper forms, which she has. They've been, the survey's been completed by Mr. Bill Bivins here in the audience, professional land surveyor. It's shown on your diagram here and the form has been approved by your attorney. The County Surveyor recommends that the board allow the encroachment as shown on this drawing which will be recorded in the County Recorder's office miscellaneous records and tied to the chain of title for future owners.

Commissioner Nix: So moved.

Commissioner Shetler: I will second, but I've got a question real quickly. That, you said decking, is that a wooden structure or is that concrete decking around the pool or what?

Bill Bivins: Bill Bivins that's a five foot concrete slab that goes around the pool.

Commissioner Shetler: Alright, thank you.

President Musgrave: We have a motion and a second. All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. Are there any more insertions into the agenda this evening, Mr. Jeffers?

Bill Jeffers: No, Ma'am.

Commissioner Nix: Mr. Jeffers, while you're up, and I don't want to keep you any longer, but—

Bill Jeffers: Do we want to do the claims before you—

Commissioner Nix: Okay, we can do the claims, and then maybe new business.

Bill Jeffers: Okay.

**Ditch Maintenance Claims**

Bill Jeffers: As Madam Chairman brought up before I interrupted her, the ditch claims are now on your desk. They are claims for regular maintenance of regulated drains. Annual maintenance has been completed, has been inspected by our crew, and approved, signed by the County Surveyor with the required documentation attached, and I recommend approval for payment.

President Musgrave: Do I have a motion?

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>New Business</b>
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Bill Jeffers: Yes, sir?

President Musgrave: Commissioner?

Commissioner Nix: Drainage issues at Eastbrook. We touched on that a couple of weeks ago, are we in a position to do anything with that? Or have you, and I guess I probably should have gotten back with you before now, but what do we need to do out there, Bill, to—

Bill Jeffers: The County Surveyor, to some degree, and the drainage board, to some degree, are responsible not only for conveyance of storm water, but the quality of the storm water we convey through our ditches. The Environmental Protection Agency, the Federal Environmental Protection Agency and Indiana Department of Environmental Management encourage us to do what we can to minimize pollution into our storm runoff. As you know from having worked long, diligent hours yourselves out there, there are a lot of potential storm water pollutants in the form of paint, oils, gasoline, detergents, aerosol cans, what have you.

President Musgrave: And these constitute a threat to public health and safety.

Bill Jeffers: And they constitute a threat to public health and safety, and that's exactly why IDEM and EPA have mandated that we minimize their entry into storm water runoff. This board maintains Eagle Slough into which Eastbrook Mobile Home Park drains almost directly. Eagle Slough is outside the levee system, it takes all the levee's water and discharges it through what's known as Catfish Pond directly into the Ohio River. That's the water of the United States of America, and as such is protected by the Clean Water Standards Act and I encourage you to do what we can, have me to do what I can, our inspectors have been out there and pulled a lot of debris out of the ditches and stacked it up in the fields along side for the farmers to carry off. But, there remains in that debris field caused by the tornado, especially in the mobile home park, substantial amounts of what constitutes storm water, what could constitute storm water pollution and a hazard to health. It needs to be cleaned up as thoroughly and as rapidly as possible.



Commissioner Nix: Okay.

Bill Jeffers: Before they enter our, you know, each time it rains some of them enter our waters.

Commissioner Nix: Right.

Bill Jeffers: That includes your side ditches—

President Musgrave: Would you suggest—

Bill Jeffers: —all of your county roadside ditches in that area either drain to Eagle Slough, Aiken Ditch or Kolb Ditch and are carried through state lands like the Indian—

President Musgrave: Mounds.

Bill Jeffers: —Indian Mounds State Park and directly out into the Ohio River.

Commissioner Nix: Would you be available possibly, or someone from your department to just check in with the guys this weekend out there. We're going to start clean up on Friday, just so that we make sure that everything is....I know we might even have a few silting issues, and I'll discuss that with Mr. Duckworth as far as cleaning those ditches out, those types of things. I didn't know if—

Bill Jeffers: Do you still have your command center? Where would I contact? Just go out there and meet with Mr.—

President Musgrave: There will be multiple Highway vehicles there and personnel.

Commissioner Nix: And Mr. Duckworth, Mike will be there this weekend, and I am going out also.

Bill Jeffers: If he's not immediately available, I can go to one of the vehicles and use the radio and contact Mr. Duckworth?

Commissioner Nix: Just look the situation over. I'm comfortable that we've done the right thing up till now—

Bill Jeffers: Sure.

Commissioner Nix: —but just to kind of monitor it.

President Musgrave: I have his cell number if you would like it.

Bill Jeffers: Okay.

Commissioner Shetler: I was wondering if it wouldn't be advisable, perhaps even tomorrow to go out there with him and point out certain things that you think need special attention and care taken to it so that it's done in a proactive way, rather than, you know, say after the fact.

Bill Jeffers: Right, and then have to remobilize to go out there.

Commissioner Nix: Right.

Commissioner Shetler: Right, so, I'm thinking if you could get with him tomorrow morning and somehow meet out there tomorrow sometime during the day, it might help. Also, first thing Friday morning, perhaps. Not to try and interfere with your weekend.

Bill Jeffers: Just don't mess with my Thursday and I'll be okay.

President Musgrave: We're good for Thursday.

Bill Jeffers: I think that's an excellent suggestion, and as your technical advisor, I'll follow up on that throughout the weekend.

Commissioner Nix: Thank you very much.

Bill Jeffers: Yes, sir.

President Musgrave: Thank you. Is there any other business to come before the drainage board? I'll entertain a motion to adjourn.

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: We are adjourned.

(The meeting was adjourned at 5:04 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Ted C. Ziemer, Jr.  
Fred Meyers  
Keith Poff

Bill Nix  
Bill Jeffers  
Lori Meyers  
Others Unidentified

Tom Shetler, Jr.  
Madelyn Grayson  
Robert Schaefer  
Members of Media

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl A.W. Musgrave, President**

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**Bill Nix, Vice President**

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**Tom Shetler, Jr., Member**

Recorded and transcribed by Madelyn Grayson.

**VANDEBURGH COUNTY  
DRAINAGE BOARD  
DECEMBER 20, 2005**

The Vanderburgh County Drainage Board met in session this 20<sup>th</sup> day of December, 2005 at 4:34 p.m. in room 301 of the Civic Center Complex with President Cheryl Musgrave presiding.

**Call to Order**

President Musgrave: Call to order the Vanderburgh County Drainage Board meeting for Tuesday, December 20, 2005.

**Approval of the November 22, 2005 Drainage Board Meeting Minutes**

President Musgrave: We have on the agenda to approve the minutes of the previous meeting.

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

**Public Hearing: Schnaus Petition to Remove Obstruction**

President Musgrave: Old business, the Schnaus petition to remove obstruction. Mr. Jeffers?

Bill Jeffers: Okay, in this matter the petitioner is Steven R. Schnaus. I previously filed a report with you last month. Does everyone have a hard copy of the report? Or does anyone need one at this time? If you do, you can stop me at anytime, I have hard copies for those who may need them, including people in the audience that might be interested. On page two you will find a copy, the County Surveyor states that a copy of the petition is in the County Surveyor's file, accompanied by pictures, as well as copies of the domestic return receipts from what was mailed to the respondents. On this handout of what I'm reading into the microphone at this time, on the back pages you'll see a copy of the petition. The original is held in the County Auditor's office. Also on page two, it states the petitioner is Steven R. Schnaus, 4109 Gayne Avenue, Evansville, Indiana, and names the respondents as Wayne and Janet McCaslin, 4123 Gayne Avenue, and Bruce Darden, 4121 Gayne Avenue. Page three of the report identifies the materials constituting the alleged obstruction as trees, weeds, dirt, plugged pipes, other debris existing in the drain on the properties of those two respondents. Page four of the report states that the County Surveyor has completed the investigation that's required by the statute, and has filed the report with the Drainage Board last month. Also on page four is the definition, by statute, of an obstruction, which is, "A condition that exists within or near a drain, etcetera", as stated right there, according to the statute. Page five says that the statute requires notice of entry onto private property to conduct the investigation. Page six contains the notice of entry that was printed and mailed, by certified mail, to each of the five property owners along Gayne Avenue affected by this hearing. Page seven of the report you will find a definition of a drain, which the open drain along the north line of those properties does meet the definition of a, the

statutory definition of a drain. Page seven states that the investigation occurred on November 7, 2005. Page eight of your report gives the Surveyor's findings, that the County Surveyor, during the course of the investigation found conditions and materials constituting an obstruction as alleged by the petitioner, including; undersized pipes, pipes blocked or partially blocked by sediment and other debris, trees, brush, weeds growing in or near the drain, along with leaves, lawn litter, and other debris lying in or near the drain, and lying against the face of the pipes. All these materials at the locations alleged by the petitioner in his petition. So, therefore, on page nine you will find the conclusion that the County Surveyor did find, and reports, the existence of conditions, including objects and materials inside and near the drain, at locations alleged in the petition, and preventing or significantly impeding the flow of water through the drain, which are the words which define an obstruction. There may be, the petitioner is here in the audience and may wish to speak. I do not know if the respondents have come to speak at this time, and there may be other affected property owners who expressed on the telephone their desire to speak. I do not know if they're in the audience at this time.

President Musgrave: Does the petitioner wish to speak? Mr. Steven Schnaus? Please come forward. While he's coming forward, are there respondents, raise your hand, who will wish to also speak? Okay, so, we'll have two respondents after that?

Commissioner Nix: There's three.

President Musgrave: Three? Okay. Mr. Schnaus?

Steven Schnaus: Good afternoon, Commissioners. I just want to let you all know that when this initially started and the pictures that we had taken about this, I called the County Highway Department and asked them what do I need to do? So, they said, that day we had a very hard rain, obviously, and they said we're very, very busy, and I understood that, so, I said, well, you know, first chance you get can we look this over? Or if they could. So, in the meantime I went ahead and took pictures, but I thought what other way than to take pictures of the water the way it was. So, then I went and called the engineering office also and asked them what I could do. Well, they had went and sent Pat Seib out and looked it over, and he said, told me that they had been looking into this area for two years. I know some of the neighbors, and when I got started talking with them, they've been trying for many, many years to get something done. Which, unfortunately, we know that this is an unplotted subdivision, according to the papers that you all have. So, that's, obviously, something that we are responsible for as landowners to take care of this. So, then, after that, I thought, well, I asked Mr. Seib, what do I do? He said, well, maybe you need to check with the Surveyor's office. So, that's what I went and did was checked with the Surveyor and talked with Mr. Jeffers and we discussed the steps that I had to take. You know, not wanting to get, you know, in the middle of upsetting the neighbors, but I didn't have no choice other than send these letters and take the steps I needed to do, because the water needs to be taken care of. One way or another, it is destroying, deteriorating the homes, including areas within mine, something has to be done. So, that's why I'm here today to, you know, ask you all to help me do what we have to do to at least get this waterway open, so we can at least get the water away. Because, as a matter of fact, I went back there today, the gentleman to the west of me he has tried to clean his ditch out and has done a pretty decent job of it, but the water still stands in it, because it can't go beyond that point. There's just no way of going through it. By looking at these pictures, that's supposed to be a ditch. Obviously, it's not going to get through there with it being filled up. Whether it's something, and I think a lot of it is stuff that's been washed down from

the years, because there's not proper drainage from the main streets. Unfortunately, that's washed across one of the gentleman's garden and washed dirt in it, but the responsibility is ours. We have to get it cleaned out, and it's not being done. So, that's what I'm basically asking, just to get the support I can get, whether we all have to pay for it, you know, that's just part of what has to be done. But, we need to do something here, because, like I say, our properties are being destroyed by every time we have a heavy rain and the water sits there, and I've got a crawl space that fills up with six inches or so of water every time I get a steady, a good rain. You know what that will do to a home in time. Not only that, one of the times, and I don't know of any of these are the pictures that I had, but there's toys floating around in this water. With toys you have kids. Obviously, we know what happens when kids in the summertime, they like to play in water, and it's not a safe thing for anybody. We all are aware of that. So, that's all I'm just asking is just whatever support I can get to go forward with getting this problem taken care of. Thank you very much.

President Musgrave: Thank you. Respondent? Please come forward, state your name and address.

Wayne McCaslin: My name is Wayne McCaslin. I've been a property owner out there for over 30 years. This is an ongoing problem that I have contacted you people, the County Garage over 30 years, for 30 years. Not only me, Mr. Tyler before Mr. Yancy died, and nothing's ever been done. You come out and you clean out a few ditches once in a while. Now, Mr. Jeffers said it's a plot, a plat subdivision, unrecorded. He don't feel that they're responsible for the ditches. Well, they've been out there to clean ditches out. First of all, these pictures, a lot of them are misleading. This man has been out there maybe six months. I've owned property for 30 years. I own two properties. The ditch behind 4129 Gayne, which is part of it is about four inches, four foot wide, three inches deep in spots. The problem that we have in on Upper Mount Vernon Road, Kenzie and Walcott. There is no drainage. I invite any of you people out there to go with a walk around with me. No one has ever done it. They won't come out and talk to me. Nobody wants to talk to me, because I know what I'm talking about. The problem is the water's running off of Upper Mount Vernon Road, there's no drainage, no ditches. I can show you. Walcott, no ditches. The next one, I forget it right off hand, I get a little nervous, I get upset. I'm trying to control myself. The water comes running off of there, comes running down through Mr. Yancy, Mr. Tyler's yard, runs over one side of his house through his driveway, the other side between his garden and his house and under his house. He would not come up here. He said he's sick and tired of fighting with you people. Nothing's going to be done. I doubt anything is going to be done. Nothing's going to be done. The water runs across the alley, it runs into his yard. His yard is, oh, I would say his yard is about two foot lower than the alley to start with, and the corner that the water runs in on is only about, I would say that much higher than the ditch. If any ditches need to be cleaned out, it's his ditch. I've been there 30 years. I've owned property for 30 years out there. I believe I'm a little bit more of knowing what's going on out there than somebody that's been out there less than six months. Until the water problem is taken care of coming off the hill, his problem is not going to be taken care of. The ditches behind Vaness, or Gayne Street on the, let me get this right, the east side, is supposed to, according to the letter that Jeffers sent, is supposed to take care of these certain houses. It's taken care of 80 percent of the water coming off that hill, out of that subdivision. No one wants to come out there. Why doesn't anybody want to come out there and walk with me and let me show you? Also, the ditch that runs on the end of my property, that is owned by the county, is plum full of water when it rains. When we had over eight inches of rain, Katrina come through, over eight inches of rain, that water is

going to take a while for it to get out. Water runs across the alley, comes off the hill, across the alley, down through Tom's side yard, which pictures you've seen, down in front of Bruce's, down in front of my house. A woman back there in the green has to go out, when she walks out of the drive to get in her car, she has to take her shoes off, walk through eight to ten inches of water. He's got a problem? He don't have a problem. I've had this problem for 30 years. I want someone out there to clean their ditches out. I want someone to come out there and walk with me and let me show you, you know, where no ditches are out. Driveways are being put in where the ditch is supposed to be at. There's small pipes under the ground. There's another lady back here that when it rains real hard, she's got to sandbag part of her house to keep the water from running in to her property, in to her house. These ditches are going to have to be cleaned out that are owned by Vanderburgh County. They're full of water. They will not empty in to Carpentier Creek. Therefore, the water up above, that's affecting it, can't go nowhere. Where's it going to go? Someone tell me where this water's going to go. If it can't get out of the ditches, where's it going to go? My ditch is an obstruction? I don't think so. Not when the water, I don't know, that's why I want someone to come out and walk with me, but nobody will. Anybody willing to put on some old clothes and some boots and come out there and let me show you what the problem is?

President Musgrave: Okay, thank you, Mr. McCaslin. Are there other speakers?

Wayne McCaslin: Uh, I asked a question. I didn't say I was done. I want to know if anybody will come out there and walk with me? Put on old clothes and old shoes, let me show you the problem.

Commissioner Nix: I will do that. I'll set a time up with you, if I can get your phone number. You don't need to give it right now, but I will do that within the next week.

President Musgrave: Alright.

Wayne McCaslin: Okay, I appreciate that.

Commissioner Shetler: I have no problem with that. As I hear things it sounds like really everybody's really on the same page. You have ultimately the same goal in mind here of getting drainage taken care of in the neighborhood. I think that's what your ultimate goal ought to be here, to all bind together here, and work together and I think you can accomplish this.

Wayne McCaslin: No, no, the ultimate goal here is for these people that have ditches that have been covered up to make their yards look nice, that has no drainage, to put the drainage back the way it's supposed to be. Not altering the drainage. You cannot alter the drainage. You can't change the flow, and that's what's happened. You see, that's what I mean. You people don't understand. You've got to come out and let me show you.

President Musgrave: Please state your name and your address for the record.

Anna Bell Wheat: My name is Anna Bell Wheat. My address, I have property where they're talking about. My daughter is joint owner with me. It was left to me by my parents. I've lived there since 1950. When the ditches were open, the way it comes, the top street from Upper Mount Vernon Road, they had a ditch on the houses that faced south. The next row of houses that was facing north, they had a ditch in their alley, and it ran that a way all the way down through that division. That a way the

water run, all the ditches then ran to the west, along to a big culvert ditch that run between the subdivision and George Kochs and Son fence. Then on down towards Hogue Road there was a great big, whatever you call it, it all dumped in to there and was carried on out to the creek, river, wherever. But, they filled in the ditches, the people that owned the properties they did it years ago. They started worrying about the mosquitos and stuff. But, what they did, they didn't, they filled the ditches in. They didn't put pipes and put drain holes along it. Now, we've got our alley is where our ditch was, and my garage is literally going to collapse on the east south corner of it from the water running through there. Which, we joined Mr. Tyler's property that he was talking about there earlier. My daughter lives there. We have cut a drain in the front porch, at the door, and have drained it back to our ditch trying to get it, and we are the ones with sandbags up there in front of our drive. They have built the road up. When we lived there, our yard was level with the road, and the houses facing us on the other street, on the same street on the other side, they went up a little embankment to get into their drive. Well, now the road is as high as their drive, yard and keeps sinking us down into a hole. I called someone out there, it was last year or the year before, and they literally stood there and practically laughed in my face. Because I was showing him what my garage was doing. The way the water was, and I explained to him, I could pull out old pictures of my brothers and sisters and I and us out there playing and show you where that road was at and how it was. He said, well, you might as well just forget it, because they ain't going to do nothing about it no way.

Unidentified: That's right.

Commissioner Shetler: I'm just wondering if it would be possible, because I'm trying to look for a resolution to this, that if it might be that Bill and I, I guess, if we announce it publicly and if Cheryl would like to join us, you know, that we just simply would meet some of the residents out there, walk through it, and if Bill Jeffers would like to join us as well, whatever, and somebody from the County Engineer's office, and we would walk it, maybe table this thing for a later time and see what we could do to come to some kind of conclusion here that will be beneficial to the whole area there. Because it sounds to me like, you know, basically the problem is a serious drainage problem within the neighborhood and it needs to be dealt with. I don't know that any one particular property owner is the one to point the finger at. It appears that there's a whole lot of problems that need to be dealt with here. I think the Schnaus' need to be, you know, applauded for bringing it at least to the table, because it's gotten to this point and I think you're getting our ear, and that's the important thing that's happening today. The next important thing is to get this thing resolved. To take care of the problem. I think once that's done, we'll all be happier. So, I think if we could work that out.

President Musgrave: Before we make a decision on that, I would like to hear from our last remonstrator. If you would come forward, sir? Are you wanting to speak after him?

Unidentified: I am.

President Musgrave: Okay.

Bill Jeffers: This actually is a hearing of petition for five specific addresses, and now you're hearing people speak from other streets in the neighborhood. Okay?

President Musgrave: Alright.



Bill Jeffers: I want to, I just want to....it's not that I'm opposed to you doing that, but you're going out from the petition area. You're now talking to people that live on Walcott who are not affected by this drain.

President Musgrave: Are you suggesting—

Bill Jeffers: So, I want to let you know that.

(Unidentified comments from the crowd.)

Bill Jeffers: I'm sorry, but the people who are speaking from Walcott are not benefitted by this drain.

President Musgrave: Please don't interrupt him.

Bill Jeffers: You're speaking outside the parameters of this—

President Musgrave: Of this particular petition?

Bill Jeffers: —petition. Yes. But, that's fine with me.

Unidentified: May I?

Bill Jeffers: As long as everyone understands that.

President Musgrave: You're next.

Dan Hermann: My name is Dan Hermann. I live at 4125 Walcott, which is the next street up from where they're talking about. I do have pictures here, and I have had water problem's that I've talked to John Stoll and things like this. This water problem is creating a really hostile environment to live in this neighborhood. That's why when I read this little article in the paper, that's why I showed up to try to give my opinion, try to help out to see what I could do in this small neighborhood. It is an old neighborhood. It was put in in the 50's. It was originally put in with drainage ditches and it become a health problem during the 70's the way I understand. So, when they put a sewer system in, a lot of this ditch, the way I understand, got filled in over the years, and it never got put in properly. So, now it becomes a pre-existing condition that, you know, I do have water in my house. I have neighbors that don't like me because I'm trying to fix the situation to keep the water out of my crawl space. They have a slab home. So, you know, I don't know really what the problem is to solve...you know, it's a big problem and I don't know how to solve it, because I'm just a little owner, you know, a little property owner in this Southview Park Subdivision. But, I do have problems where people have vacated the right-of-ways of the alleys of this subdivision, and it is blocking water, and it's keeping from, you know, being able to maintain the drainage system also in here. So, for me it's just, you know, I've got pictures here. I would be more than happy to work with Mr. Nix or whoever comes out and show you what we've got here. I know it's, I've learned what, you know, the plot, the unrecorded plot means now. But, I wish that was up-front when I bought this, because I may have never bought this property. But, you know, I would just like to, anyone, you know, show you the pictures here, what I've got, the plot plan, and try to work something out. Or at least find out who's responsible for this problem and what we can do about it. Thank you.

President Musgrave: Thank you. Now, sir, you've already spoken. Did you wish to speak?

Madelyn Grayson: I did just want to inform everyone that I'm passing around an attendance sheet. I did not do that at the beginning. Please take a moment to sign your name and address and phone numbers, so if we need to contact anyone, or if you've spoken we'll have it correct on the record.

Bruce Darden: Well, I'm Bruce Darden. I've been, I'm at 4121. I've been there 30 some years, and this guy just move in, he's been there, like Wayne said, like six months. His ground is 18 inches, 24 inches higher than our ground. He's got water running down to our property, and he thinks we're causing him a problem. You see it's not our problem. It's all running down from the road. We're lower than his property to start with. I get water in my crawl half a year, and it's got two sump pumps in it. You know, but water's not running up hill to his property. So, I don't see where the problem is. But, which the ditch is filled in behind us, which there used to be a ditch there. It's like you say, if you want to come out and meet Wayne someday, I'm his neighbor, I'll meet you out there with him. We can look at the ditch. Mr. Jeffers said he was coming out last week to look at my ditch. I told him it was open. My ditch is not clogged up. Trash from his property comes down and stops the ditch up, you know, it flows down from his property because he's higher. But, the ditch is not stopped up. You get a lot of water down there, well, you seen the pictures. One of them he's showing trash in the alley instead of the ditch. That's, no, that one back, that's up on the, in the alley. The ditch is over. The ditch is open. So, in that picture there you're not seeing the ditch. But, the ditch is open. Like I say, if you want to meet Wayne sometime, I would like to come over and show you. We can sit down and look at the ditch. You can see it. It's in an alley. You don't have to wear rubber boots and jump in the ditch. You can see that the ditch is open, okay? There was some weeds there, but I cut them out of the ditch. But, the ditch is open, and that's not stopping the water.

President Musgrave: Thank you. Mr. Jeffers?

Bill Jeffers: If I might take a moment or two to answer a few issues. This picture that you're looking at now is 4121 Gayne. That's the property belonging to Mr. Bruce Darden, who just spoke to you and said that the ditch, that you weren't looking at the ditch. That is the ditch right there.

Bruce Darden: (Inaudible).

Bill Jeffers: That's a picture of the ditch. Number 11 please. That's the picture that you were looking at. That's a picture of the ditch. That material that is outside laying in the alley is material that Mr. Darden or someone on his behalf removed from the ditch and left laying up there in the alley.

Bruce Darden: No, it was on (Inaudible).

Bill Jeffers: Those were cut, go back to number 10. Well, you can see the stumps that were cut there, but go back to number 10. That was cut out of that ditch and moved up into that alley. That's the same pile. That is the ditch. The ditch is full of trees, as my report indicated. You see debris laying there, some paper or plastic. These pictures were taken on November 7<sup>th</sup>. Mr. Darden did call me. I went back out there. He said he was there everyday. I knocked on his door, did not get a response. There was a truck in the driveway. I was there with Mr. Charley Alvey at

that time, and we looked at this ditch. Can I have, you can see it's full of lawn litter, as my report says. It's full of trees. It's full of other material and objects that impede or significantly impede the flow of water through the ditch. The reason I took a picture of the debris was to show you that it had been removed from the ditch, but it still lies in close proximity to the ditch, which the statute also addresses, that it could become washed back in to the ditch and constitute an obstruction as defined by the statute. Number 12 please. There is the entrance to Mr. Darden's pipe that goes under his driveway entrance from the alley. You can see that that pipe is probably a 12 inch pipe, but I'm not going to dig it out and measure it. But, it looks to be about a 12 inch pipe, and less than six inches of it is open for the water to flow through. That's what the ruler indicates. It's also just a piece of salvaged scrap pipe. It looks like to me that old asbestos concrete type conduit that was put in, used for culvert anyhow. It used to be water pipe, before asbestos was outlawed. Number 13 please. That is a head wall of a pipe that's basically right on the property line between Mr. Darden, at 4121 Gayne, and Mr. Wayne McCaslin who spoke to you about the entire neighborhood, who lives at 4123 Gayne. That's an old head wall. That means there's a pipe from there westward underneath the driveway of Mr. McCaslin to the back entrance of his garage from the driveway, or from the alley. Now, that area right there will indicate, when I went out there, oh, I think October 31<sup>st</sup>, this was a huge hole right here. And I poked around in the hole, and you could see that the pipe from this head wall running westward was rusted out. When I came back November 7<sup>th</sup> with a camera, someone had filled that hole in. Underneath this hole is a rusted out old pipe that's jammed together with that previous pipe that you saw a picture of. Number 14 please. This is a ditch behind Mr. McCaslin's home that he told you was three or four inches deep. That's the ditch right there. It's been cleaned out somewhat. Let's see number 13. Or, excuse me, 15. Okay, but you can see there's still trees in the ditch. That tree's about four or five inches in diameter. So, you can see that ditch is quite a bit larger than it was described to you. Number 14, or 16 please. Here's the other head wall. This is the other end of Mr. McCaslin's pipe. You can see that it used to be maybe 12 inches in diameter, but after it rusted out, somebody shoved a four or maybe an eight inch pipe, shoved it up in there, as a liner. Let's see number 17, and you can see that that pipe is oh, what, six inches in diameter shoved inside an old 12 inch pipe. To me that's an undersized pipe as my report said. Let's see number 18. There is a large amount of sediment sitting in front of that pipe. You can't see the perspective of it very well here, but the top of this sediment is actually almost as high as the top of that pipe. I'm telling you, well, let's go way back to like number three or four. So, what I'm saying is, as water tries to come down this drain, and it is a drain. It meets the definition of a drain. This part of the drain's been filled in. That's no problem, because there's very little water that comes down through here. Let's see number four. This is Steven Schnaus' property from right there at that pedestal down to right about there. Let's see number five. You can see where his neighbor who, well, it's his neighbor, attempted to clean out his pipe, but water stands in it all the time. It was standing in there the other day when Charley and I were out there. Let's see number six, seven. So, when water stands in these pipes, sediment collects and it will eventually fill those pipes back up. Now, they've cleaned them out, but why is water standing in there? Number eight. Number nine. Water is standing in there because all this is obstructed. Number ten. That's an obstruction. Number 11, number 12. This pipe right here, when Charley and I were out there, I think, when was it Charley, Wednesday or Thursday? This pipe was completely covered by leaves and debris. You could no longer even see the opening of the pipe. Between November 7<sup>th</sup> and last Wednesday, December 15<sup>th</sup> or whatever it was, that was all covered up completely.

Commissioner Shetler: Mr. Jeffers?

Bill Jeffers: Yes.

Commissioner Shetler: I don't mean to interrupt, but let me just ask you a question.

Bill Jeffers: Yes, sir.

Commissioner Shetler: In your professional opinion, do you feel then, I'm assuming by some of the things you're saying here, perhaps I can get the answer, but do you feel as if that obstruction, obviously, you feel that it exists, but if it were cleared up, then it would resolve some of the drainage problems that Mr. Schnaus is talking about.

Bill Jeffers: It will resolve some of the standing water that you've seen in these pictures, and some of the water that backed up that you saw in the original report. Or the original petition.

Commissioner Shetler: And the obstructions that are there, is that the responsibility generally of the homeowner that as that was sitting there on the right-of-way, the drainage way?

Bill Jeffers: Okay, here's the original pictures that are the, what Mr. Schnaus says are the cause of why he went to the extreme of filing this petition. Here's after a rainfall. It's my opinion, and the determination I made from my field investigation that if these undersized and clogged up pipes were removed from the drain, along with the other materials that meet the definition of an obstruction by statute, if all that was removed from this open drain, the water would flow more freely, would be less inhibited, as it flowed down through this mutual drain that serves these five properties.

President Musgrave: And as to his question as to who's responsibility it is to have these cleaned, is that the property owner?

Commissioner Shetler: As far as particularly on a regular basis. Is this a culmination of not staying, you know, keeping with the maintenance on a yearly basis or on a routine basis? Or is this something that is very difficult for a property owner to maintain anyway?

Bill Jeffers: All of the above. But, yes, it, that should be something that should be stated clearly. This is an unrecorded subdivision. All the property within this subdivision is private property. This is an alley...picture number three. On the plat this is a dedicated alley. You can see the rock on it. How that rock got there, I do not know, but because it's an unrecorded alley, or unrecorded subdivision, that is not the property of Vanderburgh County, as Mr. McCaslin indicated when he first spoke to you. This is not Vanderburgh County infrastructure.

President Musgrave: So, it is the responsibility—

Bill Jeffers: Of the private property owner—

President Musgrave: of the property owners—

Bill Jeffers: —to maintain their private property and their private drain.

President Musgrave: The ditches, the alley?

Bill Jeffers: Yes, Ma'am.

President Musgrave: So, you have investigated Mr. Schnaus' petition regarding the drainage behind Gayne Drive.

Bill Jeffers: Yes, Ma'am.

President Musgrave: And you have found that it is obstructed, and you have brought that evidence to us, and now you would ask us to agree with that finding so that you could move forward with a remedy as accorded to you by law.

Bill Jeffers: Just a moment.

Ted C. Ziemer, Jr.: Well, actually, what the statute, what we have here is evidence presented by the County Surveyor, he's the one that did the study, and he's reporting the results of that study, and he's telling us what he thinks. Based on that, you have to decide whether or not two things; you believe them based on what he's told you that an obstruction exists as alleged in the petition, and number two, whether removal of the obstruction will promote better drainage. His recommendation is that both of those things occur. You have to make the finding however. You either accept his recommendation, or you do in fact go out and look at it yourself. But, you have to have some basis for making the finding. It's perfectly appropriate to make the finding based on his study.

Bill Jeffers: Before you go any further, and I appreciate Mr. Ziemer pointing that out. It's in my script to have read to you, but I hadn't gotten to that point yet. But, it's absolutely correct—

President Musgrave: That is really annoying. (Referring to the static in the microphones.)

Bill Jeffers: Yes, it is. You're still picking me up, aren't you, Madelyn?

Madelyn Grayson: You can have...is your microphone on?

Bill Jeffers: Yes.

Madelyn Grayson: It's just feedback when Commissioner Shetler's is on for some reason.

President Musgrave: He turned his off, so you can move closer to the mic.

Bill Jeffers: The board's required to find whether the obstruction exists. You don't have to find that today. The statute actually reads, "if after the hearing".

Ted C. Ziemer, Jr.: Yes, but I'm going to suggest the board isn't going to know anything else next week than what it knows today. So, I'm not sure why they would wait.

Bill Jeffers: Other than they said they were going to go out and look.

Ted C. Ziemer, Jr.: Well, excuse me, on that score, I'm not sure whether we're talking about people who are affected by this petition, or people who aren't affected by the petition.

Bill Jeffers: Correct.

Ted C. Ziemer, Jr.: And those are two different things.

Bill Jeffers: Right, and I did want to address that. I'm not trying to ignore the big picture. This entire neighborhood is in a drainage shambles. I've responded to the Walcott calls from Dan Hermann and others, his neighbor. Mr. Walcott didn't tell you, but he has sought the advice of an attorney. The attorney gave him advice. It's in shambles out there. John Stoll, I don't know who went out and laughed at these individuals, but John Stoll and his department, Pat Seib and others have been out to Walcott, have been out to Gayne, and have worked specifically with Mr. Hermann to install a new drop basin out in front of his house in the right-of-way, you know, because you do have county right-of-way in Walcott. You do have county right-of-way in Gayne. That's where they can work, and that's what they have done. I'm not trying to ignore the big picture in this hearing. I'm trying to address the small picture as narrowly as I can within the confines of this statute, which I may or may not totally agree with this statute. There are things in this statute that aren't perfect. But, I'm trying to address it there. So, that's where we find ourselves is do you find an obstruction, and do you determine whether it's caused intentionally or unintentionally?

President Musgrave: Alright, Commissioners, you indicated that you might want to go visit, but you indicated that when you were hearing from people who do not live on Gayne Drive, which is the subject of this petition. Do you want to make a finding based on this petition, and then also go visit the larger area? Or do you want to table the whole matter, visit the larger area and bring it back? Up to you.

Commissioner Shetler: I don't think there's any doubt that there's obstruction. Here's where I come up with a little bit of a problem. I find that often times it is difficult for a homeowner to have the kind of equipment that it may take in order to remove those kind of obstructions. It becomes very costly, and I'm not so sure that the burden should be placed solely on the property owners. That there ought to be a way that maybe we could find a resolution to it, to help aid them in some way here. Now, I think there is a bigger picture that needs to be looked at, and I don't know if Mr. Schnaus is willing to, you know, table this until a point in time. Like I said, I do applaud them, because I think that if it were not for their petition and their efforts today, this wouldn't have come before us and get a chance to actually go out on site and review this and look at it and resolve the problem, hopefully.

Commissioner Nix: I guess, the concern I have is that this is one area of many areas in the county that we do have drainage problems. I'm just a little reluctant to have, to participate financially in private property on drainage issues from the standpoint of, if you do it here, where do you stop? I mean, you've got to, now, saying that, Mr. Jeffers has pointed out some very valid things here today that I think that we, and I still would like to go out and look at this. Let me say for the record too, I personally was not aware of this situation out there at all until our last Drainage Board meeting. Excuse me just a second.

**(Tape change)**

Commissioner Nix: I personally was not aware of this situation until our last, I guess it was our last Drainage Board meeting, Mr. Jeffers, when this came—

Bill Jeffers: Yes, sir.

Commissioner Nix: —to light? So, this is fairly new to us. You'll find that myself and the other two Commissioners don't sit on our hands, we, if we have a problem with something, we'll address it. But, I have a concern about the county working on private property for improvements. To me, I just really have a serious concern with that. Now, if it's been done in the past, there's a lot of things that have been done in the past, we can't help those things right now. But, I would like to, as Commissioner Shetler said, visit the site and take a look. If there are things that the county can do to improve this situation within our legal means, I'm all for that. But, I think the homeowners need to take this thing and as a group, collectively, come up with some solutions that would solve this situation. You know, once again, you know, we can give recommendations from the County Engineer and Mr. Jeffers and County Highway, and anything we can do within our means, but I'm just not, I just think that we need to draw the line and help if we can.

President Musgrave: So, is your motion to table this while you, and all of us, some of us go observe the situation?

Commissioner Nix: I would like to make that motion, yes.

Commissioner Shetler: I'll second. Then I have a question. Mr. Schnaus, would that be okay with you?

Steven Schnaus: Yes, that would be fine with me, because, like I said, I'm here to solve this problem, but we need to do it as neighbors. I'm not here to draw a wedge between anybody. We all need to get this worked out. Yes, I have no problem with you tabling this, as long as we get it addressed in a manner that's reasonable for everybody. (Inaudible) yes, or no (Inaudible).

President Musgrave: For the record, Mr. Schnaus indicated, yes, since he was so far away from the microphone.

Commissioner Shetler: I guess, what we'll do is maybe get their numbers and stuff, and then B.J. or somebody can set up a time where we all can meet then.

Commissioner Nix: We have to notice the media.

President Musgrave: So, afterward—

Commissioner Nix: By law, to all meet together, so.

President Musgrave: —we will come to you for your phone numbers. So, we have a motion and a second on the floor. Is there any further discussion on this motion? All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries. So, at this time, this matter is tabled. We have other items on our agenda, so, I would ask that those who are interested in being contacted for the group meeting, you have, she has the sign up sheet, and she

will ask you to put your phone numbers on it and any other contact method that you would prefer to have. So, all your phone numbers be on there and we will be in touch with you. Thank you.

**Heartland Crossing, Section 3: Final Plan**

President Musgrave: Mr. Jeffers, we have several other matters on tonight's agenda, can we quickly move through these?

Bill Jeffers: First is Heartland Crossing, Section Three. It's a final drainage plan. It's on your desk. It's been reviewed by the Vanderburgh County Surveyor and found to comport with the drainage ordinance. The representative is here in the audience, if you should have any questions. The County Surveyor recommends approval of Heartland Crossing, Section Three, final drainage plan.

Commissioner Shetler: So moved.

Commissioner Nix: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Crossroads Commercial Replat of Lot 6: Final Plan**

President Musgrave: We move swiftly to Crossroads Commercial Replat of lot six, final drainage plan.

Bill Jeffers: This is also a final drainage plan. It's for a furniture company occupying a replat of lot six in Crossroads Commercial Subdivision. It was submitted by Bernardin Lochmueller and Associates, Jim Farney, Engineer. The County Surveyor has reviewed the plan and found it comports with the county drainage ordinance and recommends approval.

Commissioner Nix: Move approval.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

**Cross Pointe, Section Six: Preliminary Plan**

President Musgrave: Rapidly moving to Cross Pointe, Section Six, preliminary drainage plan.

Bill Jeffers: Cross Pointe, Section Six is a preliminary drainage plan on your desk at this time, submitted by Morley and Associates, Dave Schmenke, Engineer, who is in the audience to answer any questions. The County Surveyor has reviewed it and



found it compliant and recommends approval of the preliminary drainage plan for Cross Pointe, Section Six.

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: One point of discussion, if this roadway is widened at any point in the future, will this drainage plan have to be revisited?

Bill Jeffers: I hope this roadway is widened to a sufficient width, Cross Pointe Boulevard. It will not affect the drainage plan. You will see a final drainage plan after this anyway.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

**Relaxed Right-of-Entry: Crawford Brandeis Ditch: Lot 26  
Burkhardt Crossing**

President Musgrave: Other business, sign document for recording relaxed right-of-entry.

Bill Jeffers: Okay, last month you relaxed the right-of-entry for lot 26 of Burkhardt Crossing. It's coming up on your screen. We're not as fast on the screen as we are at the microphone. Your recording secretary has a document for you to sign so that we may record it when we receive a check in the amount of the recording fee.

Madelyn Grayson: We still have not received that.

President Musgrave: Okay, you don't need a motion—

Bill Jeffers: I'm waiting on that from Mr. Morley.

President Musgrave: —on that, do you?

**Ditch Maintenance Claims**

President Musgrave: Ditch maintenance claims?

Bill Jeffers: The ditch maintenance claims that you have on your desk at this time are for work that's been completed in your regulated drains according to the contracts that you've signed for 2005 with the contractors. The work has been inspected and approved by the County Surveyor. The necessary paperwork is attached, and recommendation for approval.

Commissioner Nix: So moved.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

All Commissioners: Aye.

President Musgrave: The motion carries.

<b>Persons Wishing to Address the Board</b>
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President Musgrave: Persons wishing to address the board?

<b>Questions or Comments from the Board</b>
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President Musgrave: Questions or comments from the board? I have one comment, Mr. Jeffers made a very valuable suggestion during the calendar planning that we had for next year, and his suggestion consists of having weekly drainage board meetings so that this, the drainage plans can move more quickly through the process. I thank you for that. Our legal ad has been written to that effect. So, the community who participates in drainage board has notice now that we will be hearing those weekly, and we will hear other matters, including claims, weekly, or as you see fit, Mr. Jeffers. If you put them on the agenda and let us know and we'll handle it.

Bill Jeffers: I have one question on that, can we have one as soon as January 3<sup>rd</sup> the way you advertised? That would be your first meeting of the year, I believe.

Ted C. Ziemer, Jr.: The, it's at that meeting that the ordinance is going to be adopted setting these meetings immediately following. So, unless we can get notice out to that effect. You can have a special drainage board meeting.

President Musgrave: Do you want one?

Bill Jeffers: We're anticipating a plan that's critical to the developer known as Wynnfield Subdivision, Section Two that should be ready to come to that meeting.

Ted C. Ziemer, Jr.: So, the Commissioners could call a special meeting of the, or the drainage board members could call a special meeting of the drainage board, give customary notice to the media, but the purpose of that meeting would be solely the issue that you're describing.

Bill Jeffers: Wynnfield, Section Two.

President Musgrave: May I direct the secretary to do that without a motion? Or do I need a motion?

Ted C. Ziemer, Jr.: No, I don't think you need a motion.

President Musgrave: Alright. Do you have that down? Alright.

Bill Jeffers: Thank you.

President Musgrave: So, please notify—

Bill Jeffers: Merry Christmas, look forward to working with you next year.

President Musgrave: Same here.

Commissioner Nix: Thank you, Bill. Appreciate your work.

President Musgrave: Motion to adjourn?

Commissioner Nix: Motion to adjourn.

Commissioner Shetler: Second.

President Musgrave: All those in favor?

Commissioners: Aye.

(The meeting was adjourned at 5:25 p.m.)

**Those in Attendance:**

Cheryl Musgrave  
Ted C. Ziemer, Jr.  
Steven Schnaus  
Dan Hermann  
Members of Media

Bill Nix  
Bill Jeffers  
Wayne McCaslin  
Bruce Darden

Tom Shetler, Jr.  
Madelyn Grayson  
Anna Bell Wheat  
Others Unidentified

**VANDERBURGH COUNTY  
DRAINAGE BOARD**

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**Cheryl Musgrave, President**

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**Bill Nix, Vice President**

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**Tom Shetler, Jr., Member**

Recorded and transcribed by Madelyn Grayson.